

**CRIME AND VIOLENCE IN A NATIVE  
AMERICAN INDIAN TRIBE:  
A CRIMINOLOGICAL STUDY OF THE  
SOUTHERN UTE INDIANS**

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JULIE C. ABRIL, PH.D.

Forward by Gilbert Geis,

Former President American Society of Criminology

## **DEDICATION**

To the Mouache, Capote, Weeminuche, Unitah, Yampa, Parianuc, Tabeguache Bands of Ute Indians, and to all the other Ute People who came before you and are still among you, I dedicate this book. And, to the Bear for without you this would never be.

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## FORWORD

The tenacious attempt of the Southern Ute Tribe to hold on to and pass along to a new generation its traditions and customs is vividly testified to in Dr. Julie Abril's ethnographic study of this Native-American (or, as she prefers, Indian) enclave. Some 1,500 members of the tribe reside on their reservation in the southwest of Colorado, not far from borders with Arizona, Utah, and New Mexico. Their near neighbors include Anglos and Hispanics, each with populations about the size of the tribal roster. It is the differing cultures and the implication of these distinctions that are one of the major focuses of Dr. Abril's research.

The Southern Utes today have more than their fair share of wretchedness, much of it a long-term consequence of a history of brutality, discrimination, and exploitation directed against them. Dr. Abril presents fascinating verbatim reports of a lengthy series of interviews in which tribal members express pride and pleasure in a life that permits them to remember and recreate age-old ceremonies, such as the annual spring Bear Dance, which in the olden days in this matriarchal warrior society allowed a wife who was discontented or perhaps just seeking something different to find herself a new husband. If she so chose, she could do so year after year. The tribe holds tightly to its traditional customs, and there is considerable resentment of the intrusion by non-Indian neighbors into territory and ways of life that the Indians regard as exclusively their own. They do not want artifacts to be removed from their sites and they ban non-Indians from many of their ritual performances.

The tension between the drive to retain the old and to hold off the temptations of the new that is featured in Dr. Abril's book has worldwide parallels. So too does the ethnocentric impulses of peoples to gather and stay together with those like them, those who share their heritage, attitudes, and values. Indeed, the intensity of ethnic identifications and the consequences of such identification is one of the most significant characteristics of the contemporary world. Yugoslavia fell into segments as different groups fought for recognition and independence and, most recently, Kosovo has established itself as a distinct nation. In Rwanda, raw genocidal terror has marked the conflict between persons with dissimilar ethnic identities. Czechoslovakia split into the Czech Republic and the country of Slovakia. India could not hold together after the departure of the Raj and we saw the formation of Pakistan and then Bangladesh and now the push for independence of Tibet. Nor do the newly-formed states live in harmonious relations to their previous masters.

The list of peoples who have fought for a separate sovereignty can be extended to a considerable length. But the United States shows a different picture and it is in this context that Dr. Abril's contribution must be situated. Since the American Civil War there has been no serious attempt by any of the state governments to remove themselves from the federal union, putting aside the idiosyncratic existence of the Independence Party in Alaska. This is true despite the presence of many different religions and, increasingly, large immigrant communities where the first language is not English. Nonetheless, people move freely from New York to Atlanta and Miami, from Minneapolis to Los Angeles, with no sense that they are entering an alien community.

The way the melting pot process unfolds was vividly portrayed by Pauline V. Young in her classic study. In *Pilgrims of Russian-Town*. Young looked at a community of Molakans, devout Christians who migrated from the steppes of Russia to the urban slums of Los Angeles early in the twentieth century. The migrants were hard-working, preferring manual labor because carpentry had been Christ's calling. They lived quiet, law-abiding lives, but their children rebelled, transfixed by the pleasures of the secular society. In the public schools, they were made fun of because their families ate from a common dish. When the adolescent boys would be sent to a youth facility for delinquency they would write home to their siblings describing the delights of ice cream and other foods not served in their homes but available if you could be sentenced to serve time in the Youth Authority. As an identifiable group the Molakans have long since ceased to exist in the United States.

The information that Dr. Abril has gathered talks to this theme of assimilation as contrasted to the impulse to hold tightly to ethnic traditions. In one regard, the situation of the Southern Utes can be seen as fortunate, in the sense that their relative isolation on the reservation land they own allows them to try in a formidable manner to indoctrinate their youth with tribal cultural values. But they are up against the intrusion of modern means of communication, notably television and the Internet, and the infusion of tourists, particularly those patronizing the Sky Ute Lodge and Casino, which boasts 700 slot machines and operates in the Southern Ute town of Ignacio every hour of every day. It remains to be seen whether the wealth generated by the gambling enterprise serves to make living on the reservation more attractive and financially satisfying or whether its secular ambiance lures Indians toward a seemingly more glamorous existence beyond the reservation horizon.

Jewish culture in America provides an ominous object lesson for the Southern Utes. So long as they suffered from discrimination and exclusion Jews remained a tight-knit group, marrying within their religion and keeping to themselves. But once the outside society became more tolerant of diversity Jews began a wholesale intermixing with gentiles so that today the existence in the United States of their ancient religion is threatened by a marriage rate with outsiders that is near the fifty percent level. Along these lines, a key global issue is whether Muslims will resist the culture of the nations where they have settled outside their homelands,

The blood line of the Southern Utes has been considerably diluted over time; that is, there are relatively few full-blood enrolled members of the tribe. But the intensity of the allegiance to their particular ways by many of those who inhabit the reservation is strong. They try to teach the members of the new generation Mouache and Capote, Southern Ute languages, and they seek to inculcate in the younger generation a deep-seated belief in the prominence of spiritual beings and spiritual matters.

Dr. Abril concentrates particular attention on crime and the criminal justice system on the Southern Ute reservation. The demands of the outside political system to exercise jurisdiction over the more serious offenses-- the felonies-- leads to the practice of breaking such behaviors into several misdemeanors which then fall within the jurisdiction of the tribal courts which tend to be more understanding of cultural issues and personal situations. A great deal of attention is also devoted to the work of the police and the custodial institutions. The usual methods of social control by tribal elders have had to give way to a tribal police force because of treaty obligations imposed by the federal government, but strenuous efforts are made to see that this force is sensitive to the special ways and rules that make up tribal life but do not necessarily appertain to their non-Indian neighbors and the more urban society in Ignacio.

Spirituality is given a strong and noteworthy prominence in Dr. Abril's report. The lives of many of the Southern Utes are infused with their beliefs in the importance of spirits—some good, some evil—in ordering their existence. Their reactions to this phenomenon vary: some are fearful, others indicate that intrusion by spirits is but an annoyance and that these unwanted visitors need to be sent forcibly on their way, either by the person involved or by a call to the tribal police.

Mention must be made of the especially useful Appendix to this monograph that spells out the attitudes and tactics that are necessary to gain permission to do research on an Indian reservation. Dr. Abril, herself a Yaqui Indian, had an initial advantage, but she offers very helpful hints on the courtesies and logistics essential to get and keep the trust of the Indians and to obtain important personal information that otherwise would never be disclosed to somebody seen as an intruder. Her acceptance and endorsement by the tribal council has allowed her to gather valuable information not usually available to social scientists.

Gilbert Geis

University of California, Irvine

Former president, American Society of Criminology



## **PREFACE**

The purpose of this study was multi-fold. First, a study of this nature in a tribal community where two distinct culture groups, i.e., Indians and non-Indians reside does not appear in the contemporary criminological literature. Second, the study was originally perceived as one that could not be done. As there are many barriers to accessing closed Native American Indian tribal communities such as securing funding, a lack of interest by research scientists, and inability to achieve the cooperation of the general tribal membership (due mostly to deleterious results of previous research efforts), this study sought to determine if it could be done after over-coming the inherent barriers. This study has done so. Third, the study sought, in part, to determine if a tribal community does indeed suffer from all of the social ills current rhetoric surrounding Indian Country indicates. As in all communities Indian and non-Indian, large and small, rural and urban, this community has challenges it faces and often overcomes. Fourth, this study provides a new direction for community research into rural areas that has been missing from much criminological literature.

The study illustrates the significant influence that a collective identity held by the community membership has on the resiliency of this cultural group that has been much maligned and under attack for centuries. More important is that the community profiled is resilient to efforts, coming from both within and outside, to change its nature and heritage. Indeed, the most threatening influences on this tribal community are the infusion of non-Indian paradigms and acculturation due to globalization from sources such as the internet, satellite television, cellular phones, and simply movement into the 21<sup>st</sup> century. How this tribe is responding to these unavoidable threats to its existence is an example to all tribal groups who find their unique cultures threatened with extinction.

I am proud to have had the opportunity to work with the Ute People for nearly a decade. I have learned from them methods to aid my own tribe and myself to keep our inherent culture, identities, and bloodlines prosperous for the next centuries to come.

Julie C. Abril, Ph.D.

March 8, 2008

Julie C. Abril is an Independent Researcher and Scholar, author of *Bad Spirits: A Cultural Explanation for Intimate Family Violence: Inside One American Indian Family* (Cambridge Scholars Publishing, 2008), and *Violent Victimization within One Native American Indian Tribe: The Southern Ute Indian Tribe* (VDM Verlag Publishing, 2008). Dr. Abril is also an elected Executive Counselor for the Division on People of Color and Crime of the American Society of Criminology (Term 2007-2009). This study was funded by a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Award No. 2001-3277-CA-BJ). All views are those of the author and do not necessarily represent those of the United States Department of Justice.

## **ACKNOWLEDGMENTS**

The People who are not people speaking words that are not words.

The Woman I Always Talk To In My Head.

My Yoeme People.

Blood.

## INTRODUCTION

For hundreds of years Native American Indians (hereafter, Indians) have been subjected to extermination and then assimilation policies. Only in relatively recent decades have Indians been reallocated some of their original sovereignty. This has allowed Indian tribes to re-build their communities and re-establish their own governments and sovereignty, if only to a limited extent.

This book examines one tribal group, the Southern Ute Indian Tribe, in an effort to understand how it has been able to (1) retain its collective cultural and spiritual identities and (2) resist attacks on its social cohesion and solidarity from both federal and state policies and from cultural attacks coming from inside and outside the group. This book takes a unique look inside the tribal community to report on matters that are of great interest to the tribal members themselves. Matters related to youth behavior in the community, cultural attacks, and the future well-being of the entire tribal nation are examined to conclude that community attacks, regardless of the manner in which they are dealt, have worked to strengthen this tribal nation and make it much more resilient to the corrosive effects commonly seen among other tribal groups. I argue that the unique collective cultural and spiritual identities of this group are what have allowed it to become the resilient and powerful tribal nation that it is today; and will continue to be into the future.

To orient the reader to the style of presentation of this material, I will briefly discuss the format of this text. On occasion, I introduce material from either my field notes or quotes from the actual interviews with tribal members. I think this is important to do for two reasons. First, I want to bring witness to the conversations I had with 85 tribal citizens. Anecdotes and unique stories of modern tribal life give the reader an insider's view that, at that time, only I was privileged to witness. Second, they illustrate more than what was captured on the audio tapes of the interviews, particularly in the case of my field notes. For example, below are some excerpts of my field notes that provide more information on the lightheartedness of some tribal members as well as some of the challenges I faced while gathering the information for this book.

## FROM FIELD NOTES:

## The Dogs, The Duck, The Peacock, And The Chicken

Their dogs understand Ute, Navajo and Apache language. In a low voice so that no one could hear, she whispered to me, *"The duck gets "sexually abused" by the peacock and when this happens the chicken makes all kinds of noise."* The duck does not like this nor do his companions. He used the money to go buy more hay for the animals. It costs \$3.00 for one big square of hay. They can lift it all out of the truck by themselves. I asked to help but they said it was their exercise. The goat has his own mobile home. They just throw hay in there and he eats when he wants to. She makes homemade bread and stuff. Hates store bought bread because it melts away too fast; doesn't stick to stomach. They're elders but they are stronger than I am! I told him that she left the check in her crossword puzzle book and to not forget it. He said, *"If she put it there, she won't forget it!"*

\* \* \*

Below are more samplings from my (nearly) unedited field notes from conversations with the Ute tribal members:

## FIELD NOTES:

When we were done recording the interview, she told me about her youngest daughter who died when she was a teen. The daughter was her favorite and she was devastated not only at the loss of the life but because the girl was her favorite child of the two she had. But she was able to establish a relationship with her living daughter that would not have been possible otherwise. She told me that her and her daughter were the very same, hard-headed and stuck in their ways. With the death of her younger daughter, she was forced to become closer to the living one. She told me that her and her living daughter have had many *"heart to heart"* talks and have become closer as a result. Her daughter now lives in a trailer which is situated next to her home where she lives with her husband.

\* \* \*

He was open and forthcoming but he was shacking when we talked. I wondered if he was having some kind of diabetic attack or alcohol withdrawal symptoms. A few days later I learned that that evening he used the fifty dollar compensation payment to buy alcohol and went on a drinking binge.

Unfortunately, this behavior caused him to have a major seizure and landed him in the hospital. His sister was very worried about him. I learned that later he had lost his new job at a hotel because he was unable to return to work. He showed me the scars on his face from getting beaten up by people on the reservation when he was drunk.

\* \* \*

This is a “*very strong and independent woman.*” She fought against domestic violence and grew to be the woman she is now. She said her best encounter with the police was when they came to her house to do a welfare check on her oldest daughter because they thought she had been kidnapped. Apparently, people saw someone who looked like her with tape over her mouth and being dragged into a car by two Hispanic males. This turned out to be a false alarm and was greatly appreciated by her. Her eyes teared again after she told me the story.

\* \* \*

Drunk guy came up to me. “*Hey, you wanna to give me a baby?*” He went to prison for 6 years for domestic violence. He had track marks on his arms from drug use.

\* \* \*

She feels nothing will be done because there have been many studies done in the past and no resolution has come about from these research efforts. Yet, one retired social worker asked about my research methodology for this project and requested a final report!

\* \* \*

He didn’t have too much to say. He laughed when I asked about bad spiritual influences.

\* \* \*

Drunk chick. “*Can I help you!?*” Wanted to fight - had some kind of weapon behind her back. Told her I was there to meet someone. She calmed down and went to get the interviewee. Many guys hanging around her home; I ended up interviewing all of them.

\* \* \*

Her son threw a knife at her last night the hole was still in the wall – cried and I hugged her. She showed me her ‘papers’ from the BIA but she is not enrolled in the tribe. Cried because no one from the housing office will fix her broken window and it gets cold at night. Her window was fixed the next day. When I paid her she said, “*Now I can buy groceries.*” Cried some more. Later I cried thinking of her crying that that money was so needed by her. I felt like giving her more money but I didn’t want to get in trouble with Bureau of Justice Statistics who funded the study or the University of California

where I was a graduate student and I wanted to get as many interviews as I could. I had no extra money.

\* \* \*

And the field notes go on; some of which appear later in this book. Other quotations are taken directly from the transcribed interviews such as those below:

**Question: What Do You Like About The Area Where You Live?**

It's been home to us and we feel comfortable. The weather changes but we are just used to this place because we grew up around here. I didn't grow up here but my husband did. This is where he was born in this house (the house in which the interview took place). His grandparents lived in here before my husband was born. Over the years we remodeled it and fixed it as time went on. It's over a hundred and some years old; maybe a 150.

\* \* \*

The area where I live is open. I don't live around other people. I live out in the country but on the reservation. I like it because we got three acres to ourselves. We got lots of dogs and it's nice. I like it. People live around us are farmers and whatever. Their dogs come over and visit us or our dogs go over to their house. I like where I live and I like living there more than I would like to live around my fellow members.

\* \* \*

The biggest reason I stay is because there's security there for my children, as far as their school. Me being able to allow my kids to be safe, in a safe environment, where I know all the people is nice."

\* \* \*

It's good because we're all together. We've always been with each other. We work together with all the community.

\* \* \*

To introduce the reader to the Southern Ute Indian Tribe, I end this Introduction with the location and territory of the tribe.

## The Research Site

### *The Southern Ute Indian Tribe: A Federally-Recognized American Indian Tribe*

#### Location & Territory

The Southern Ute Indian Tribe is a federally-recognized American Indian tribe located in the southwest corner of the state of Colorado. The tribe is located in a rural area and is approximately 20 miles southwest from Durango, Colorado (see Map 1.). The nearest township is Ignacio, Colorado, a small hamlet. In Photograph 1, notice that the bottom of the sign reads “A Tri-Ethnic Community.” Tribal members believe that this is done to reflect the ethnic distribution of its residents; almost equal parts Indian, White, and Spanish (personal interviews, 2002). The Town of Ignacio serves as the governmental headquarters of the tribe. Later in this book it will become clear that the tribal members disapprove of this ethnic mixing as it has led to many problematic issues. The town was named after one of the most active and influential Southern Ute Indian Chiefs in the tribe’s history, Chief Ignacio. The reservation is within easy driving distance to three other large Indian reservations, the Navajo Nation whose base is in Shiprock, New Mexico, the Jicarilla Apache Nation whose base is in Dulce, New Mexico, and the Ute Mountain Ute Indian reservation, based in Toawoc, Colorado.

The reservation is 1,125 square miles with the boundaries including approximately 680,000 acres (see Map 2). There are more than 2,000 people who are considered to be Southern Ute Indian. Approximately 1,500 Southern Utes live within the boundaries of the reservation. Another 11,000 people, a mixture of Anglo (35%), Hispanic (35%) and Other American Indians (30%), also live within the boundaries of the Southern Ute Indian reservation (personal interview with tribal official, 2000). The tribe has a gaming facility (The Sky Ute Lodge and Casino), which attracts non-Indian tourist traffic during the summer months. Other sources of income for the tribe include royalties from natural gas and oil sales and financial investments. Diagram 1 illustrates how land within the boundaries of the Town of Ignacio has land that is under the jurisdiction of the County of La Plata, the Town of Ignacio, and the tribal lands under the jurisdiction of the Southern Ute Indian Tribe.



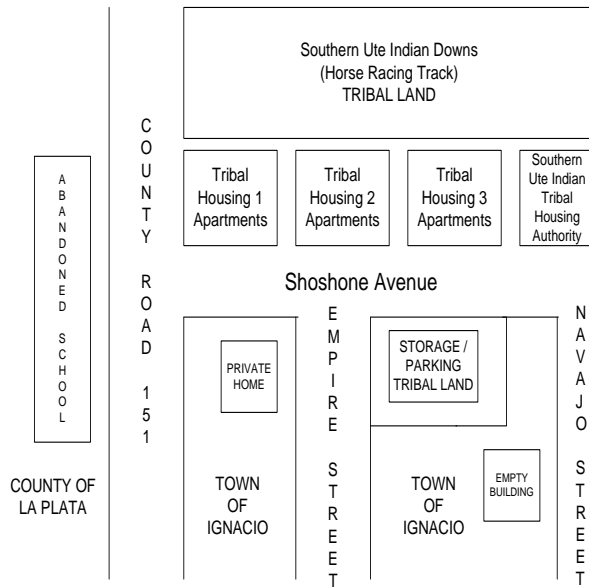


Diagram 1.

Southern Ute Indian tribal land, Town of Ignacio land, and County of La Plata land in one residential area within the boundaries of the Town of Ignacio in the state of Colorado. Diagram by Julie C. Abril (2005).

In this book I argue that a strong and continually reinforced collective cultural and spiritual identity among the members of this tribe is what builds and strengthens its resilient nature. This is important because strong community resilience to adverse forces has kept the tribe alive for centuries and will continue to do so well into the future. In the remainder of this book, I reiterate my main argument about community resilience. That is, that a strong collective Ute Indian cultural and spiritual identity builds community resilience and protects it from attacks upon its culture. In the first Chapter, I discuss the history and culture of the Ute people.

## CHAPTER 1

# THE HISTORY AND CULTURE OF THE SOUTHERN UTE INDIAN TRIBE

I realize that I'm an Indian. Every day is a hard day. It's a hard life to be an Indian because you have to try to fit into two worlds; the way you think, the way you pray, the way you try to raise your kids.

\* \* \*

## INTRODUCTION

### WHO ARE THE SOUTHERN UTE INDIANS?

The Southern Ute Indian Tribe enjoys a government-to-government relationship with the United States Congress and the President. The Tribe was federally recognized as part of the Brunot Agreement of 1874. Federal recognition means the tribe is recognized as a legitimate governmental entity. The tribe has jurisdiction over many matters occurring within the exterior boundaries of the reservation as is described in the following text which appears in the Southern Ute Tribal Code (the book of laws). "The Southern Ute Indian Tribe has jurisdiction over all territory within the exterior boundaries of the reservation as established in the Brunot Agreement which was ratified by the United States Congress on April 29, 1874, and as added thereto by Presidential Proclamation and Executive Order (Southern Ute Tribal Code, Title 1 General Provisions, § 1-1-107 Territorial Jurisdiction)." The Act of 1895 (Hunter Bill) required the tribe to vote for or against having land allotted to individual Utes as the Act of 1887 (the Dawes Act or General Allotment Act) stipulated that lands be allotted to some Indians (Ellis, 1989).

Before 1874, the Ute Nation was made up of seven main bands: Mauche, Capote, Weeminuche, Tabeguache, Grand River Utes, Yampa, and Uintah Utes. Ute (Ute dialect: yutas) means "the people" (Pettit, 1990: 168). Upon the enactment of the Brunot Agreement in 1874, these bands were disbanded and re-constituted by Presidential mandate into four separate tribes based on their dominant area of historical residence. The Southern Ute were

so named by the federal government because of their presence in the southern part of the state of Colorado. The Northern Ute were so named by the federal government because of their presence in the northern part of the state of Utah and Colorado. The Ute Mountain Ute were so named by the United States government because of their proximity to a local mountain range. The fourth group of Ute is the Utah Ute. An interesting note is that the state of Utah was so named because of its large population of Ute Indians (Jefferson et al., 1972). This action by the government to divide the tribes and re-name them was one of the first actions that drove a stake into the relationships between the Indians and the federal government; a stake that continues to exist today. Forcing European-based foreign names on the bands is just one example of the results of governmental policies on the culture of this Native American Indian group and on the collective identities of its members. In this text, I will refer to members of this tribe as the Ute People instead of the Southern Ute, in an effort to help restore their indigenous identity and to reject the former assimilationist policy of the federal government. When referring to the group from an official perspective, I will use their legal name, the Southern Ute Indian Tribe.

Forced language changes too have had a negative affect on individual Indian psyches. For example, when I asked a tribal official for the “Southern Ute” version of “thank you” that was to be used on the survey instrument, he replied somewhat indignantly to me, *“There is no Southern Ute language! There is only Mauche and Capota!”* Another example comes from a survey subject who wrote on the back of her questionnaire, *“That’s [Tog’ Oiak’] not how you say “Thank you in Ute – There (sic) no word for “thank you” ...just the word “that’s all right” or “it’s all right” ...that’s what this means.”*

In response to these and other deleterious effects of federal interventions the tribe, while using its semi-sovereign status, designed a seal that would forever link it to its past. An example of this is found in the cultural icons that appear in the tribal seal. The icons on the seal mean the following: The mountains, trees and bears reflect the fact that the tribe resides in a mountainous region. The Bear is a sacred animal to the Ute people. It is thought that many tribal traditions originated from the Bear. The oil rig indicates the tribe’s reliance upon income derived from sales of natural gas. The farming equipment and livestock are symbolic of the agricultural activity of tribal members. The warrior is reflective of the past warrior culture of this tribe. The peace pipe is a reflective of an ancient practice among the Ute people. The small flag represents the state of Colorado.<sup>1</sup>

---

<sup>1</sup> To learn more about the culture of the Utes, see Decker, 2004; FitzPatrick, 2000; John, 2002; Roberts, 2001; and, Smith 1990.

## Historical Tribal Leadership

### The Chiefs and Sub-Chiefs

Historically, the Ute Indian Tribe was governed by a Chief and a small group of sub-Chiefs. The Chief could be chosen by a number of methods. They could either inherit their position from a family member once that member died. They could be chosen by the current sitting Chief if they no longer desired the position. Or, they could earn the position through achievements in battles and wars. In many cases, the position of Chief was an earned position either by a single deed or an accumulation of deeds. The position could also be taken by another tribal member in a fight that would require the current Chief to be killed. Responsibilities of the Chief were many and usually involved making the final decision on tribal directives.

Chiefs were also responsible for tribal law enforcement. For example, the Chief would rely upon the tribe's Medicine Woman (or, Man) (Ute dialect: *eiweepee*) to inform him if a cultural law had been broken. An example of a cultural legal violation would be if a certain type of animal, e.g., a white buffalo, were killed. The Medicine Person would inform the Chief of what the spiritual ramifications to the tribe were in response to such a violation and then recommend an appropriate punishment. The Medicine Person would then go about doing the necessary spiritual activities to rectify the harm caused by such a violation. The tribal chief would then direct the appropriate sub-Chief (in the case of tribal punishment, it would be the War sub-Chief) to carry out the punishment (personal interview with tribal official, 2001). We can see remnants of this practice today in the modern tribal code which allows for advisors on tribal custom to be allowed to participate in legal matters before the tribal court as they relate to cultural custom and norms. The actual text reads as follows: "Where any doubt arises to custom and uses of the Tribe, the court may appoint a private advisor or advisors familiar with the Southern Ute Indian Tribal customs and usages (Southern Ute Tribal Code Title I, General Provisions, Article 2, Civil Actions, 1-2-101 § 3, Determination of Custom)."

The most severe punishment imposed on a tribal member was banishment. Death sentences were not imposed in the history of the tribe. When I spoke to a tribal official, she told me why capital punishment was never used and why banishment was the most severe sanction. She told me that anyone could be strong enough to survive a whipping (lashing) or other type of physical punishment (except capital punishment). But banishment involved harm to one's pride. Pride, in this warrior-based society, was intimately related to one's family and social standing. If one's pride had been harmed by ridicule and/or banishment then the harm resulting from such could be irrevocable during their lifetime. Moreover, this harm can be transmitted from one generation to the next. We can see evidence of this today as some entire families have derogatory reputations that are the result of transgressions by members who lived many generations ago (personal interviews, 2002). The condemnation of entire families because of transgressions of generations past may or may not be restricted to these Indians but it certainly separates and

indicates the way Ute people perceive the world from the way that non-Indians do.

The sub-Chiefs were responsible for a variety of areas of tribal life. The War sub-Chief, for example, was responsible for deciding who the tribe's enemies were and tactics and locations of battle sites. War sub-Chiefs also decided where the tribe should set up camp for the season. There were also hunting sub-Chiefs who were responsible for the hunt for game and other means of sustenance. Other sub-Chiefs were responsible for a variety of areas of tribal life (personal interview with tribal official, 2001).

### Modern Tribal Government

Today, the Southern Ute Indian Tribe (its formally recognized title) is governed by the rules of the Indian Reorganization Act of 1934 (Wheeler-Howard), which states all federally-recognized American Indian tribes must have in place a democratically-elected government. In response, the tribe holds public elections that are open to all enrolled members in order to determine who should be the tribal chairman. Antonio Buck was the last traditional Chief and the first elected chairman of the Southern Ute Indian Tribe (Ellis, 1989:11). It should be noted that when I obtained approval from the tribal council to conduct this study on their reservation, a woman was the sitting Chairman, the Honorable Ms. Vida Peabody. In Chapter 2, I discuss Ute perceptions of their modern tribal government.

### The Tribal Council

There are seven elected members of the Southern Ute Indian Tribal Council. Each member is elected in staggering elections so that there is never a gap in tribal leadership. At the time of this study, there were three women and four men sitting as Southern Ute Indian Tribal Council Members. The current Chairman of the tribe is the Honorable Mr. Howard D. Richards, Sr. The circular design of the council chambers reflects the Ute belief in the circle of life. The next Chapter also discusses the perceptions Indians had of their then-current tribal council.

### The Government (Under the Tribal Chairman)

The Tribe has a municipal form of government. The only major difference is that the Chief Justice of the tribal court (a woman in a major leadership position!) reports directly to the Tribal Chairman, which is a relic of the traditional method of justice administration.

This tribe's governmental structure is heavily influenced by its historical cultural and spiritual practices. Protection of the governmental structure protects the tribe's historical legacy. Protection of the legacy helps to protect the governmental structure, as much of the tribes' modern law and government is based on historic cultural and spiritual beliefs and practices. What is going on today in the tribe's government is a reflection of its cultural heritage. This separates the Indians from the people who do not have a Ute background, i.e., the non-Indians. This means that the manner in which the

tribe self-governs is still somewhat different from the manner that is commonly used in non-Indian governments.

Changes in the demographic composition of the tribe are likely to have an effect on the quantity and quality of the governmental services provided to tribal members. In light of the circumstances that the Brunot Agreement of 1874 broke up the historical governments of this tribe and disbanded the original Ute clans to distant areas, according to those with whom I spoke (such as tribal officials et al.), the individual Ute tribes retain nearly identical social, cultural, and spiritual practices and beliefs (personal interviews, 2002; also, see Ellis, 1989).

### Group Identity

Emile Durkheim (1933 [1893]) argued that groups formed among individuals who shared certain beliefs. He called shared beliefs the collective conscience. The more the individuals fulfilled the demands of the collective conscience, the more likely they were to share the group identity. This concept has some similar associations with social solidarity, i.e. when people share common interests and behave in concert with each other. More recently identity has been considered as a major factor associated with agency. That is, how individuals define their identity is believed to be associated with the actions they may take. This means that individuals who perceive themselves as Indian are thought to behave differently than non-Indians. Culture, for Durkheim and most other individuals (see e.g., Cerulo, 1997:401 who wrote that “Within the past two decades, the humanist or cultural studies approach to identity has dominated the field”), is a major factor in determining groups, and, therefore, collective identity. In this text, I link collective identity to the healthiness of this tribal group. Chapter 7 links together the pieces of this argument.

## CULTURAL AND SPIRITUAL PRACTICES

### CULTURAL PRACTICES

The purpose here is to discuss the cultural practices of the Ute in order to provide a picture to the reader of the nature of the tribe. Using a threefold approach, I describe the cultural practices; discuss how important these are to the Ute and their meaning to the practitioners; and, to report how pervasive these practices are in this community. This is critically important to setting the foundation that culture, which is partially expressed by participation in cultural activities, is intertwined with and, indeed, fundamental to the strength and, ultimately, the perceptions of the community that the tribal members hold. More important, I discuss how these practices are significant to the development of the collective cultural identity of the Indians. I argue this helps the entire community to become resistant to attacks and extinction. That the Utes hold these beliefs helps them to establish their unique collective identity. There are a number of cultural practices of which a few include; the Bear Dance, leatherwork and beadwork, pottery making, storytelling, and attending pow wows.

### Linguistics

Many Indians reported they speak at least one of the Ute dialects. In fact, one woman reported that she teaches Ute dialects to young people in the tribal school, the Southern Ute Indian Montessori Academy, an elementary school exclusively for Ute tribal members in grades K – 3. When asked if she was involved in any cultural activities, she said: *“Yes, I teach Ute culture; the language. I’ll say Hello to you, “Micu.” “Agadana” means “How are you?” These are all cultural values that I teach.”*

It is doubtful that any of the Ute dialects are spoken by the non-Indians who live near and among the Utes. Speaking a shared language helps reinforce a collective identity and a sense of belonging which is needed for members to feel part of the larger Ute group. Dancing, too, is important to the Ute people.

### Bear Dance

One of the annual cultural practices of the Ute people is a social gathering they call the Bear Dance. This dance is an opportunity to reconnect with family and friends and to share news of the previous year. Historically, the Bear Dance was a time to welcome the Bear out of hibernation and to embrace the new spring and give thanks for surviving the often-times harsh Colorado winters.

The Bear Dance opens with a blessing of the ground. Tobacco is offered to the West, North, East, and South by a tribal ceremony elder. This is a “lady’s choice” dance because, as the Ute tribal tale is told, women select the males as mates (Ute dialect: mamaci piyu). According to the tribal tale about the Bear Dance, the original instructor of the Bear Dance was a female bear. Yet some tribal members told me the Bear was male. This is important to understand because the Bear Dance and its method of practice in this cultural context influence the collective identity of its practitioners as this is a matrilineal society.

The Dance is presided over by a “Cat Man.” Watermelon and elk stew are served to both the participants and observers. The Ute hold much respect for the Bear and thus do not eat its meat. It is believed that the Ute people originated from the Bear. The Ute also believe that the Great Spirit endows the Bear with powers to pass on to the Ute people. As this dance is for the benefit of the women (Ute dialect: mamac) of the tribe, women wear traditional attire. This consists of a cloth dress in a weave pattern, beaded moccasins, belt, earrings, and ties in the hair with a fringed shawl. A dress is made new every year to represent a new cycle of life. Red Earth paint is worn on the faces of women to represent the Earth. When the women and men dance, they are believed to be dancing with their spirit ancestors (video - Ciletti, 1989). Dancing is one means by which members reinforce a collective cultural identity.

The Utes in this study reported a variety of interpretations of the Bear Dance. An example reported to me follows: *“Basically, the Bear Dance is a celebration. The Ute celebration of the coming of Spring. The Ute tribes used*

*to live in bands. They were hunters and gatherers and they did not live in any one area. They lived in little family groups. The Bear Dance is an opportunity for all members of the Band to come together and have celebration of the spring and choose a partner."* The Bear Dance was also a time for women to choose a new or different mate. She is obligated, should there not be any egregious behavior on the male's part, to stay with that mate until the next Bear Dance, i.e., for one year. If the female decides she is not satisfied or happy with the mate of her choice (for any reason whatsoever); she is free to choose another mate (who must be unattached) during the next Bear Dance celebration. This tradition is not shared by the surrounding non-Utes. Participation in the Bear Dance celebration increases solidarity among the Ute people and reinforces their collective identity and social norms. A man reported to me about the spouse picking opportunity, *"The Bear Dance is like a social dance. It has its own history in where a man would go with a woman and then he'd stay with her for however long he wanted to stay with her but she had the right to throw him away. They would live with her parents. Everything that he had was hers. When she didn't want him anymore, she'd go look for her another husband during the Bear Dance. That's what it was, a mating thing."* The Bear Dance serves other social purposes as well. Reconnecting with family members and reiterating social boundaries are important parts of the Bear Dance. One woman reported to me, *"It's good because you get to meet other relatives. You get to find out why this person is related socially to us. I mean, there's just different people you can dance with and who you can't dance with...it means to me how much people get involved with their religious doings."*

In addition to meeting the social needs of the Ute people, this Dance can provide a "new start" as the tribal New Year is marked by the Bear Dance. One woman told me: *"It helps people think of things as a new beginning, it's like the start of a New Year. I think a lot of people need that renewal. The Bear Dance is one of the few things that's really pertaining to just the Ute people because I don't think anybody else has the Bear Dance."* When asked from where the Bear Dance originated, the same woman told me the story of the Bear Dance: *"The young man was walking in the woods. Then he met a Bear and the Bear told him he needed to do this Dance. The Bear showed him how to do it. The Bear passed it on and told the young man that he wanted him to show the Ute people how to do this Dance. He (the Bear) gave him a time of the month as a celebration."*

In summary, the Bear Dance and its practice are unique to the Ute people. This cultural practice works to solidify a unique collective cultural identity among the Ute that is not shared by the surrounding non-Indians. Other cultural practices of the Ute people work in concert to form a special identity that is not shared by the non-Indians who may be living in the same area. Other cultural practices which help to mold the Ute collective identity among its members are discussed next. Before I get to that, how about some more field notes?



## MORE FIELD NOTES:

He told me many stories of Indian spiritual things. He spoke of the Grass Dance (Lakota tradition), the Chicken Dance (Lakota tradition), the Bear Dance (Ute tradition), the Sun Dance (Ute tradition), sweats and pow wows. He was in a good position to speak of these things because he heads spiritual activities. He told me of spirits who inhabit the reservation and how they influence people's behavior. The Bear Dance is to welcome the spring and to give thanks for surviving the winter. The Bear Dance is a social gathering and held in an area near the Southern Ute Downs (the race track). All Southern Utes are welcome to attend the Bear Dance. White people may not attend the Bear Dance! The Sun Dance is a spiritual ceremony where certain people dance and pray for their family and friends. During the Sun Dance, people fast for several days and during the fasting and when they are dancing, they received visions from the "Great Spirit." Only certain people can attend the Sun Dance. There are certain families that are Sun Dance families just as there are certain families who are Bear Dance families. During the Sun Dance, women who are menstruating may not attend. The Sun Dance is held in an area different from the Bear Dance and the location is on a plateau over-looking a large area of the reservation. White people are not allowed to attend the Sun Dance! The men who dance in the Sun Dance are held in high regard among the people in the tribe. Sweats are usually held in the specially-constructed hogan. Sweats are another spiritual ceremony where people pray to the Great Creator for guidance and assistance with problems. Again, women who are menstruating may not attend the sweats. White people have been invited to attend the sweats by certain Indians but this has been generally met with great derision among the majority of tribal members. It is felt that White people are trying to take what little is left of Indian culture and use it for their own purposes. Another person told me that when the sweats are performed improperly, it makes "bad medicine" and causes great harm to the tribe and individuals. "Bad Medicine" is the term used for bad spiritual influences. The procedures of a sweat are rather simple. The sweat takes place in a round hogan. There is a fire made in the middle of the hogan and rocks are heated in the fire. Water is poured onto the rocks to make steam. The steam and the heat generated from the fire makes people inside the hogan sweat. When people sweat, impurities both physical and spiritual are released from the person. During sweats, people pray and talk to each other about their problems. Conversations occurring during a sweat and inside a hogan are required to stay inside the hogan. To speak of a conversation that has occurred while in a sweat is thought to bring about great harm to both the person leaking the information and to the person who instigated the conversation. This breach of etiquette is usually met with severe sanctions that include out casting from future sweats and spiritual harm. When I was gathering this information about Ute spiritual ceremonies, the men were more reluctant to speak about the process. Perhaps this was because the men are responsible to performing many of the spiritual functions. Women, however, were more open in speaking with me about the spiritual ceremonies. I received much of this information from a variety of sources during the many interviews. I was also told about the Native American Church (aka, peyote). The Native American Church is typically held in a tee pee and the members

use peyote to in order to see visions. Many Indians feel that the Native American Church is a creation stolen from Indians and modified by white people. These Indians do not like the peyote.

\* \* \*

She told me about the Bad Spirits that inhabit the reservation. She spoke of a woman in a white dress that can be seen near the Southern Ute Downs (the old race track). She believes this woman to be a ghost. She told me other stories about Shape Shifters (Skin Walkers/Indian spirits) who inhabit the reservation. She told me a story about a very, very large birdlike animal that almost attacked her. She said the animal was almost 12 feet wide, from one end of its wing to the other end of its other wing. She said she was afraid of this animal and said that other people had seen it, too. She said it looked like some sort of prehistoric animal and that it comes and goes at will across the reservation. After the interview, she saw another woman walk in for the next interview. When the second interview was done, the first woman told me that she and the other woman got into a fight once and she hit the woman over the head with the lamp. The other woman tried to strangle her with the lamp cord. Both were drunk. They fought over some guy they both liked.

\* \* \*

Another woman saw the devil near the old school and prayed for him to go away. I met her IFO the administration office. At the end of the interview, she mentioned that there are too many very fat (obese) Indians on the reservation. Could be due to the amount and kinds of food Indians here eat. She told me of her grandmother who made "*horse shit*" food to eat. This food was "*flour, lard and water fried up in oil.*" That's fry bread.

\* \* \*

Spoke with tribal police chief about interviewing his employees next week. He gave his permission for me to interview whomever I needed to. He also asked how his department was doing thus far in the survey. I told him that I have been getting reports of police brutality and favoritism, most coming from past encounters with officers from the previous administration. He seemed upset when I told him of this. I better tell the council these reports were about the administration they recently fired.

\* \* \*

END FIELD NOTES.

### Leatherwork and Beadwork

Many Utes engage in bead and leather work as a social, cultural, and entrepreneurial activity. The traditional dress of the Ute is made of buffalo leather, deer skins, and decorative beads. Both women and men engage in making the adornments for their traditional regalia (costumes). Multi-colored beads are delicately sewn into the leather (Ute dialect: *nikacagap*) and make

stunningly beautiful garments that are used for all traditional, social, and cultural activities. In particular, these regalia are often seen during Sun Dances, Bear Dances, and when participating in the pan-Native American Indian activity called pow wows. These creations and their accoutrements (bags, pouches, etc.) are often also created to sell to the tourist trade as a means of income for some Utes. Certain types of creations are strictly for the use of the maker or for the person for whom the maker intends. It is common that certain regalia stay within a family for generations and thus it becomes part of their cultural artifacts. Passing these artifacts down from generation to generation helps to reinforce the Ute's belonging to both the modern tribal group and to its ancestry. Reinforcement of belonging helps to solidify one's identity as part of the group. While the surrounding non-Indians may also pass down mementos of their heritage to others in their individual families, it is unclear if this practice has any effect on the collective identity of the non-Indians living around and among the Utes. This practice may affect the collective identity of the Ute people and make it more distinctive from a non-Indian identity.

Before beginning one of my interviews with a woman in her mid-forties, the woman was excited to tell me of her latest creation. With apparent great pride she produced from her carrying bag a package wrapped in cloth. She opened the cloth to reveal a small pouch that had some of the most exquisite beadwork I had ever seen. The woman was excited to tell me that she had recently finished work on this creation and was to add it to her dancing regalia. I could tell this pouch had great significance to her as she held it up and offered it to me for inspection with both of her hands. When I asked her what doing that, i.e. creating the object, meant to her she was speechless. Her eyes moistened and she could not speak. She began to wipe her eyes and I was immediately uncomfortable for the position in which I unknowingly placed her. I tried to use what little words I had to comfort her and to acknowledge that making such a magnificent piece of artwork was indeed critical to her spiritual and cultural practices and identity as a Ute woman.

This example should serve not only as an illustration of the significance of this particular activity but also as a reminder that when doing field research, sensitivities to the culture under investigation must be paramount to scientific rules. Qualitative research often dictates that certain types of questions be asked (e.g., "What does that mean to you?"). The culture and situations found in the field may be such that seemingly innocuous questions have such a profound effect as to threaten the subject-researcher relationship which will, ultimately, threaten the quality of the data gathered during the interview. In hindsight, it would have been better to rely on my intuitive knowledge and interpretations of the subject's non-verbal physical behavior than to push her for a verbal comment that can be tape recorded for later replay. When in the field, it is not uncommon that one must sometimes go with the situation and, hopefully, make a scientifically sound or defensible decision as to how to proceed.

Let us now return to the discussion of cultural artifacts and their relevance to the identity of the owners. Any non-cultural use of the artifacts,

such as selling them for a profit, is viewed as an offense against an Indian cultural value. The sentiments of many Ute people regarding the possession of their artifacts by non-Indians, in particular by WHITE PEOPLE<sup>2</sup>, are reflected in the following quotes: *“I’d feel offended because they’re mine! They belong to me! They’re mine, my beliefs. It’s like giving away your Native identity”* or *“It’s our stuff! It don’t belong to them!”* and, *“... it isn’t anything that’s part of their [the WHITES’] culture. To Native Americans, things have a lot of different meanings to them. I don’t think a person should have these things unless they know the meaning and value of them. Most of it is personal to a person.”*

These feelings are shared by members of other Native American Indian tribal groups. For example a Zuni Pueblo/Cochiti Pueblo woman who lived on the reservation told me that many traditions, which are imparted in cultural artifacts, are kept from WHITE PEOPLE: *“I’d be upset about that because in our Zuni ways, ours is very, very sacred. We hold a lot of traditional stuff that we don’t let the WHITE PEOPLE even know about. Like the Kachinas and the way we go about our fasting and other spiritual activities that we do.”* The point of this woman’s opinion is to show that certain sacred ceremonies are part of the collective identity of the group practicing such. Should these practices be revealed, it may weaken the groups’ collective cultural identity and ability to become efficacious and more resilient to outside attacks and internal strife. Another important cultural activity is pottery making.

### Pottery Making

Other activities engaged in by the Ute are both creative and functional, such as pottery making. Creation of these modern artifacts by the collective may serve to reinforce ties to their culture. Also, these may play a pivotal role in the collective identities of the members of this tribal group. Non-Indians, who are not part of the creative process, may never experience the bonding effects of this engagement and will likely not share in the positive effects on their groups’ collective identity.

Pottery making is a traditional cultural activity among the Ute people. Evidence of this activity is found in many non-Indian archeological efforts. However, these scientific efforts have caused harm to the tribe. The Native American Graves and Repatriation Act (NAGPRA), 25 U.S.C.A. §§ 2901-2906 was written to cover this very activity. The Act, in delineating who owns such objects, in part reads: (a) Native American human remains and objects. The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after November 16, 1990, shall be (with priority given in the order listed) – in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American, or in the Indian Tribe ... on whose tribal

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<sup>2</sup> “WHITE PEOPLE” is often spoken derogatorily, similar to the “N” word. This is not primarily based upon phenotype. It is mostly based on a perceived transformation of social class and power. That is, when the non-Indians arrive in Indian Country, they are no longer the dominant group. This phenomenon does not require the physical presence of non-Indians on the reservations. It also relates to the concept of white, middle class social dominance outside of Indian Country.

land such objects or remains were discovered (Chapter 32 – Native American Graves Protection and Repatriation - § 3002. Ownership).”

Cultural harms include loss of items that link the modern tribe to its ancient origins. This may have led to breaks in knowledge, as expressed in the stories told by the tribal story tellers where one person may know certain tribal minutia while others may not. The type of cultural harm is also expressed as an offense against Indian cultural values. Many of the Utes in this study expressed outrage at its practice as is evident by these comments about WHITE PEOPLE collecting Indian pottery from the Southern Ute lands: “[Question: How would you feel about that (Non-Indians collecting Indian pottery?)] *They’d be six feet under at that time!*” [Question: So, that’s really offensive to you?] Subject nods head to indicate yes.” And, *“Because if we see them (cultural artifacts) laying down (on the ground), a lot of times we don’t even pick them up. We’ll leave them where they’re at. What we have personally in the house or around the house it’s just for us, no one else.”* [Question: Why do you not pick things up if you see them laying around?] *“Because we strongly believe in our religion ... that you’re not supposed to disturb the, what you would call the deceased, the Spirits.”* Finally, one elderly woman stated, *“... it’s part of my teachin’s that ... to have respect for things like that and if they do find any ... you know like that (sacred objects) ... ask permission first before they pick it up or do anything with it ... because a lot of things have to go through the tribe.”* Similar to many other indigenous groups, storytelling is central to the culture as it passes cultural capital down from the previous generations to the contemporary Utes.

### Storytelling

As is true in many different indigenous cultures, storytelling plays a dual role in the lives of the Ute people. First, it conveys information to the listener about facts, occurrences, and general tribal knowledge. Second, it conveys an unspoken message about the nature of the tribal culture from where the event(s) arose. For example, when I was talking to one of my interviewees about reasons why she would call the police, she began to recite experiences she once had with Indian spirits.

[Question: Why would you call the police?] If something weird or evil is going on. I mean, Skin Walkers, they’re all over the place! And they (the police) can’t do anything about them! [Question: What’s a Skin Walker?] “It’s a shape shifter (an Indian spirit). They have ... everybody knows about them here. You can hear them howling at night. You can hear them chanting around or running around. I have pit bulls and they’re always barking around. My dad’s always telling me “Your pit bull needs to go in the house!” And I’d tell him, “It’s just those old stupid Skin Walkers!” You can hear them on top of the hill on a clear night. And they make me mad you know. So, I go out and tell them, “Get the hell out of here! Go back to where you belong!” Then my dogs are out there looking around and getting excited and I just tell them, “You know, those poor little people (the spirits of the Skin Walkers) have to be like this.

They can't face you in broad daylight. And the Creator sees them so they have to be really pitied and prayed for because they chose this way of life." Sometimes they may be evil and sometimes they may not be. Just like me, I hit one of them on the road." [Question: You hit one?] "Yeah, the big (inaudible)... there was two of them and he was bleeding! And I was kicking the hell out of him. I was so mad because I almost wrecked my car. I was going fast." [Question: Was that a living ...?] "Skin Walker, big one! You know that dog, I hit him with my car. I picked him up. I just booted him up and then I turned around and told my daughter, go get the police and tell them there's a damn dog over here. You know, I turned around and that dog was nowhere in sight. But I know I really hit him good. I told him, "If I ever catch you, I'm gonna kill you!" That's just the way of life here. [Question: So, there's a lot of them around here?] "There's a lot of them around here, yes." "When I was little, my grandpa used to check up on us to see if we had everything we needed ... my aunt and my older sister went to a dance. She fell down and we were watching her and we ran over to her and there she was. She was kind of like a space white to me. I saw one of her hands changing into a claw. I said, "Oh my God!" I screamed. My grandma she came out and she said she just walked backwards real slow back into the house. Then she closed the door and locked it. Then my grandpa came in and he prayed for us ... smudged us and whatever else he did. You know, I felt safe. But I used to stay with my grandpa all the time. I used to see when these old Spanish people used to be alive. I'd see all the things he'd used to tell me about. It's instilled in you so it's there - - it's part of your life so it's not anything you should be afraid of. [NOTE: The subject was speaking to me personally, as her and I had previous conversations about spirit beings prior to beginning the interview.]

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This type of story tells me a number of things. First, it tells me that this person has a strong belief in the spirit world and its manifestations. Second, it tells me that she and others have in the recent past and would continue to rely on formal policing agencies to attempt to regulate cultural matters. Indeed, it was reported to me from several other sources that one of the police officers has responded in the past to police calls for service as they relate to spiritual entities on the reservation. I was unable to sustain an interview with this officer because she kept getting called into service during our meetings. In this instance, the cultural matters are the spirit entities found on the reservation. This is an important point because it appears the tribal members may have lost the knowledge on how to deal with these issues and now they are relying on a tertiary mechanism, that is, the police to do so. This is similar to Richland's "invented" traditions used in the Hopi tribal court (Richland, 2008).

The purpose of the previous material was to illustrate that the Utes have a different collective cultural identity from the non-Indians, which is based upon their tribal history and spiritual experiences. Now, the Utes are living in the modern world where they are inundated with people who are not like them. Social control mechanisms that once may not have been approved of for certain matters are now being used. The Utes may be able to use these mechanisms, such as the police, in a way that does not undermine their collective identity. While this modern Indian practice may not affect the non-Indians who hold different views of spirit entities than do the Utes; it may be reasonable to assume that the collective identity of the non-Indians would be harmed if the non-tribal police were used to respond to cultural matters such as the one cited above. A non-Indian police officer responding to such off of the reservation may be ridiculed or outcast by colleagues and/or the public.

Third, she assumed that I had reservations or fears about my own spiritual experiences. This was not so but the woman attempted to tell me that she had had similar experiences and that I should not be fearful of my own. In this regard, storytelling is used to convey more than one point. It may be that the surrounding non-Indians have a different view of spirituality than the Utes and may be uncomfortable with its discussion. For example, in the non-Indian culture in general and the Euro-American culture in particular, discussion of spiritual experiences (with spirits or otherwise) are often viewed as a sign of mental illness. In this case, dissimilarity in perceptions of spirit events between the Ute people and the non-Indians indicate a marked contrast. The Indians believe spirit and ghost sightings are a normal part of their existence, whereas the majority of non-Indians believe these same sightings may be a sign of mental illness. This difference in belief structures is reflected in the differing collective identities held by Utes and non-Indians.

#### Pan-Native American Indian Cultural Involvement: Pow Wows

Many Utes interviewed for this study involve themselves in a pan-Native American social practice called the pow wow. The pow wow is a social event whereby members of various Indian tribes travel to a central location to participate in a variety of Native American Indian social practices. Of particular interest during pow wows are the dancing, singing, and drumming contests that are held between members of various tribal groups. Pow wows are an ancient practice. They first originated among the Plains Indian groups and served several important functions. Neighboring tribes, for example, came together and parceled out hunting territories and other matters of great importance to both groups. The meetings ended with song and dancing to drums and eating to celebrate the new agreements. Social and marital connections were also made during these events.

It is assumed that ancient pow wows helped to strengthen a collective Indian identity. It is probably more likely that they were actually used as a business and social function as their identity as Indians was not necessarily challenged by non-Indians during the ancient times. Today, pow wows are entrepreneurial events used as an avenue to earn money through dance and drumming contests and sales of pseudo-pan-Indian crafts and food such as fry bread and Indian tacos. Of all federally-recognized tribes in the United States,

today only handfuls engage in this activity as a core cultural event. For example, the Pascua Yaqui Tribe of Arizona does not, as a tribe, engage in pow wows because this practice not part of the Yaqui culture. Modern pow wows are predominately entrepreneurial opportunities for individual Indians to earn money from Euro-Americans who may feel an obligation or a desire to "*be with the Indians*" because now it is "*cool to be an Indian*" where once it was not so (see Abril, 2004 & 2005). While non-Indians are often in attendance at pow wows, especially those held in urban areas, it is unclear if there is any social bonding that occurs among the non-Indians in the same manner that it occurs between the Indians. Perhaps it does occur in the minds of non-Indians. I, however, have never met an Indian who said a pow wow made them feel closer to non-Indians in a cultural manner.

Thus far, I have presented cultural information in such a manner that supports my argument that cultural practices are fundamental to the strength and enduring nature of this tribal community. Indeed, these cultural practices are critical to the development and retention of a collective cultural identity among the Ute people. There are also spiritual practices that are a corner stone of this tribal community and will be discussed next.

## SPIRITUAL PRACTICES

The purpose of this section is to not only describe the spiritual practices but to discuss how important these are and what they mean to the practitioners; in addition to reporting how pervasive these practices are in this community. This is critically important to setting the foundation that culture, which is partially expressed by participation in spiritual activities, is intertwined with and fundamental to the strength and the individual perceptions members of this Native American Indian tribal community retain. Spiritual practices help to form and strengthen the collective identity of tribal members and reinforce social organization within the tribe. Several of these practices are limited to members of the Ute Indian tribe and are off-limits to outsiders (especially to "WHITE PEOPLE"). This reinforces the assertion that spiritual practices are critical to the collective spiritual identity of members of the tribe. There are a number of spiritual practices that I will discuss; including the Sun Dance, Medicine People, witchcraft/sorcery, sweats, prayer, drumming, and singing.

### Sun Dance

The Sun Dance is the major spiritual activity in which Ute Indians engage and has its roots in the origin of the tribe. The following text regarding the Sun Dance was taken from the official web page ([www.southern-ute.nsn.us/culture/sun.html](http://www.southern-ute.nsn.us/culture/sun.html)) of the Southern Ute Indian Tribe and details the nature and characteristics of this sacred Dance. It was written that, "The Sundance ceremony, conducted once a year in the middle of the summer is the most important spiritual ceremony in the Ute tradition. Having undergone a series of transformations over the last century, it nevertheless preserves at its core a Ute tradition as old as time, the tradition of tagu-wuni or "standing thirsty." That tradition has two major, mutually interlocked aspects to it, the



personal and the communal.” The following section of text was taken from the above cited Southern Ute Indian tribal webpage regarding the Sun Dance.

At the personal level, a dancer (traditional male) must receive a command which often comes to him through a dream and impels him to participate in the ceremony as a dancer. At the visible level, participation involves a four-day fast - abstaining from both food and liquid - conducted inside the Sundance lodge, there undergoing the various ceremonies connected with the Sundance and participating in the dancing itself (where each individual dancer, when aroused by the drumming and singing, dances facing the center pole of the lodge). The visible trimmings of the ceremony are the mere shell, within the actual spiritual contents resides. And for the individual dancer, the spiritual contents involves a quest for spiritual power, a purification, an act of communion (or attempted communion) with the Great Spirit. This quest, the so-called "medicine power" is strictly individual, with very minimal direction from the Sundance Chief. The Sundancer has to reckon with the spiritual world by himself and cope with rigors and pains of the spiritual quest alone, summoning his utmost physical and mental resources. He is not judged or evaluated, the "success" of his quest is purely a matter between him and the Great Spirit. And the gained "medicine power," if indeed obtained, is given to him to use or abuse according to his private vision. That is, however only half of the story.

The communal or social aspect of the Sundance has to do with the fact that the Sundancer does not only partake in the ceremony as an individual. He is, at the same time, a member of a family. And the family pitches their Tipi or shade lodge in designated locations around the periphery of the Sundance grounds. The Sundancer comes forward as their representative, and they are there to support him vigorously, both spiritually and physically, in singing, drumming or silent participation. The presence of the family is absolutely crucial in giving the Sundancer strength and sustenance as he undergoes his quest-ordeal. It is also crucial in reminding the dancer that, although he is there on his own and the "medicine power" if gained will be his to use, the power is ultimately not his at all, but rather it comes from the ultimate source, the Great Spirit, and is given to him for a purpose, to be used in service of his family and community. The family/community, participating as a more passive audience inside the Sundance lodge, thus has very high stakes in the dancer's successful quest. And while they are keenly aware of the possibility that the dancer may choose to hoard his gained "medicine power" and use it strictly for his own ends, by their mere presence and support they exert a powerful force upon the dancer to follow the path of mature

spiritually and social responsibility, responsibility to his kin as well as to the community at large.

With the family serving as the mediating force, the Sundance thus becomes the instrument via which the entire Ute community attempts to achieve spiritual rejuvenation and reinforce the common spiritual power which has traditionally served to bind them together. The Sundance becomes both the means of achieving that common bond, and the affirmation of the existence of such a binding power. And so long as the Sundance tradition persists, and so long as Sundancers receive their dream-vision and come forward to dance, the survival of the people is assured. (Submitted to the Southern Ute Drum by Aka Nuche, Red Ute, Eddie Box, Sr.)

\* \* \*

There are several items in the material above that distinguish the belief structure of the Utes from others. This includes the belief that dreams are a form of communication from the spirit world and that power can be gained from dance. More important, the Sun Dance serves as a means to reinforce the collective identity of the dancer's family and the tribe. As it was noted, "*to achieve spiritual rejuvenation and reinforce the common spiritual power which has traditionally served to bind them together.*" Clearly, a collective spiritual identity among the Utes is reinforced by the Sun Dance which also serves as social glue for the tribe.

The following comments by several interview subjects reveal that the Sun Dance has a deep-seated spiritual meaning to the participants and their families and is rooted in the history of the tribe. This is important because community activities that are rooted in the history of the tribe and are still practiced today are important to the future existence of the tribe. Collective activities such as the Sun Dance reinforce the collective identity of the tribe. Several Sun Dance participants made the following comments to me about what the Dancing means to them personally.

[Question: What does the Sun Dance mean to you?] A little bit more than the Bear Dance because it's more spiritual. I haven't danced because my dad says you are supposed to pray before you can dance. A lot of guys say they can dance but they shouldn't, but they do it. If I don't have a dream then I don't ever dance. I haven't danced for over 25 years...My dad's been doing the Vision Quest, the hanging with the hooks in the body (A Sioux Indian activity). [Question: What does he get out of that?] It's real traditional...I don't think the Bear Dance is a spiritual activity but the Sun Dance is.

\* \* \*

[Question: What do these dances mean to you?] They mean a lot to me...spiritually and just the way I was brought up...the

way we cook and feed the people, and fast and all that stuff.  
[Question: Would you say these are very important in your life?] Yes.

\* \* \*

It's just a continuum of spirituality that you can live every day even if you've got a headache or stressed out. Ask the Spirits to assist you. You can see it. It's just like having a premonition of something, even at night...when I used to live with my grandparents, my grandfather used to tell me about the old Spanish people...the things they used to do. You grow up with all that. It's part of you.

\* \* \*

[Question: What does the Sun Dance mean to you?] "For me, it's a time to think about what's going on. When people were dancing, my son would say, "Mom, I'm gonna drink a lot of water." And, I would say, "Why are you drinking a lot of water?" He'd say, "Well, I'm drinking water for the people who are dancing." To me, it's a time to reflect, maybe ask the Creator to help people." [Question: What does the dancing mean to you?] "It is a way for the individual who is dancing to show his commitment to his family or to himself or to the tribe for their well-being because he is sacrificing for them. My kids were brought up to respect the people who dance.

\* \* \*

Sun Dance, my family comes from a Sun Dance family.  
[Question: What does that mean to you?] It's something that my family has gone through. They're suffering to help me...to pray for us so that we will be able to take care of our family and other people. It's just something we do. My family has always done it.

\* \* \*

Again, as with the Bear Dance the Sun Dance becomes something by which the Utes solidify their collective spiritual identity.

### Dancing

One of the core activities occurring during the Sun Dance is dancing. The other activities are fasting and praying. Dancing in the traditional manner of the Ute is one way thought to bring the Spirits of the ancient Ute (called the Stone People) into contact with the modern dancer. The Dancers then receive an elevated social status within this culture. Often during the course of the interviews, I heard many subjects reporting that a member or members of their family were "*Dancers*." Indeed, several people said, "*my family comes from*

*a Sun Dance family*” as a means of conveying their own level of spiritual involvement and identity alliance.

Another dance is the Walk of the Warriors. This dance is to honor the fallen warriors in the tribe. This includes the veterans who have served in the modern United States military. Non-Indians have a similar event, marked as a national holiday (Veteran’s Day). Veteran’s Day observances by non-Indians are to honor veterans of the American Armed Forces. The Southern Ute Walk of the Warriors includes honoring the warriors of ancient times as another means of reconnecting with their cultural heritage. So honorable is it to be considered a warrior in either the ancient times or in the modern military that the tribe has dedicated a park in their honor and holds a special area in the tribal museum to honor their fallen warriors. This is important to the Ute because they are a warrior-based society. Having these memorials solidifies the collective belief in the honorable nature of being a warrior. This shared belief contributes to the collective identity of the Ute people.

#### Medicine People (Ute dialect: eiyweepee)

The use of traditional methods of healing is common in this Native American Indian group. Traditional healers are called Medicine People. It is very common for tribal members to use the services of Medicine People for physical, psychological, and spiritual ailments. Comments from interview subjects reveal that there is a belief in the power of the Spirit World to affect the lives of the living both in a positive and healing way and in a negative and harmful way. These comments are important because they show a strong attachment to spiritual beliefs which are part of the core of this Indian group. Shared beliefs serve to reinforce the collective identity of members of the tribe. Illustrative comments include: *“I’ve gone to Eiyweepee (Medicine Man) meetings and those sort of things. He’ll get together with others and he’ll ask the Spirits to come and heal that person. He does some ceremonies...it makes you feel good”*; *“I have seen a Medicine Man...probably will continue to see a Medicine Man and an M.D. It works for me”*; *I have gone to a Medicine Man for physical ailments. Yes, it helped. It was on a different reservation”*; *“You wouldn’t go to a Medicine Man if you had a cold. You’d go for different things. Sometimes people feel there are outside forces trying to do something to them or their family...like Evil Spirits. Or, people are trying to use things against them to harm them. I’ve seen them use a Medicine Man for that”*; *“If I’m real ill or someone in our family passes on for no reason, we go to see if somebody is trying to do this or that...witchcraft. [Question: Does that go on a lot, witchcraft?] Yes, they use it a lot (here). I can’t talk about it.”* Thus witchcraft and sorcery are used as a means of social control. I address this phenomenon in the next section.

Finally, many people reported that when they do use the services of a Medicine Woman/Man, they usually leave their reservation and meet with these healers on other reservations. This is a distinct area of differences between the Utes and the non-Indians. As was discussed previously, use of Medicine People by Indians has long been a common practice of this group and is a part of the cultural and spiritual practices that make up the collective identity of the modern Ute. Non-Indians may not have access to this form of

healing power and thus may not have incorporated it into their non-Indian identities.

### Witchcraft/Sorcery

I saw a Medicine Person when I was younger; about three or four times from age 18 to 21. I had people come from somewhere else in order to perform. Usually, it's someone else. At that time in my life, there was evil spirits and stuff, there was evil brought upon me through mishaps, just things that I'd find when I was living with my folks at their house. What they felt. [How would someone bring evil on you?] As far as being sick, sickness. Maybe I'd get sick for no reason; like dreadfully sick. It'd be like respiratory-type, bedridden, just watching your every move. According to them, there were people out there doing that to me. [How would they do that to you?] If they had contact with a piece of clothing or a string of hair they could do it. What came out of seeing this person (going to the Medicine Person) was a blessing because a lot of stuff came out. You could see what they (bad people) were doing. How they were getting a hold of me.

\* \* \*

Witchcraft/Sorcery, or "Bad Medicine" as it is often called by members of this group, is practiced by some members. These practitioners are often viewed as "outsiders" by the majority in the group. Quintana (2004: 100-103) wrote about shamanism among the Ute. She wrote, "Shamanistic practices for curing illness depended rather upon the supernaturally bestowed powers of the individual practitioner than upon a course of training." This means those who use these powers are born with them and they cannot be taught. She also wrote that this ability is, "natural phenomena ... controlled by supernatural forces."

When asked if the practice of witchcraft was common on this reservation, one woman replied very carefully, "*Yes, they use it a lot.*" Many people felt that witchcraft is being used to bring about ailments to people. A number of subjects reported to me that they had been stricken with maladies as a result of witchcraft being used against them. Comments by interviewees revealed that witchcraft is a method with which one may attack another. Other subjects reported to me in a confidential manner that they had either used a form of witchcraft or know of others who had used it against them; while a woman laughed at the use of witchcraft and the label of "witch" that had been applied to her by other tribal members. These comments are important to this study because they further illustrate a shared belief system. Shared beliefs are important to reinforcing a collective identity. The following comments were common and are illustrative of the types of misery inflicted by witchcraft: "*I had a pain in my chest. I told my dad and he talked to a Medicine Man. My dad took me down there to see him. He helped me with my pain. I also had something wrong with my vehicle. I always felt there was gonna be a really bad accident with my vehicle. I think jealousy was the cause of the badness.*"

*After I went to see the Medicine Man there was a calm...a calm feeling after that. He was a (tribe's name deleted) Medicine Man."*

Other people reported that either they themselves were witches or knew of people who are considered to be witches. One tribal elder reported to me her experiences with a former sitting council during an election period: *"The Election Board said I had "witched the Election Board"...They (the Board Members) started calling me and said I had "witched" the board...So, then I became a Witch to them..."* This subject went on to tell me that her reputation as a local witch was documented in an international newspaper found in Korea: *"I have a friend, a Korean woman, who said, "Let's go to Korea." On our way home they were passing this Korean newspaper around, and they said they knew about it, what went on with me (at home on the reservation with the Election Board). I said I can't read Korean but one of the men could and he did." He said, "You're not a local witch anymore, you're an International witch! (interviewee laughs at the memory)." The Ute belief in the power of witchcraft and sorcery may be different from non-Indian beliefs yet it reinforces the Ute collective identity. Non-Indians, who seek the help of medical doctors and psychologists, are unlikely to share this common collective spiritual identity or be welcomed into it by the Utes. Another common spiritual activity is participation in sweat lodge ceremonies.*

### Sweats

A sweat lodge is an enclosed domed structure made of dirt, grasses, and rocks. It is usually constructed in a special area chosen by a medicine person. It serves as a place in which ceremonies and other practices are conducted. Attending sweat lodge ceremonies or sweats, serves a dual function. First, according to the Ute, it is an opportunity to prey to the Stone People to help take one's problems away. According to the Ute legend, the Stone People are spiritual entities who are believed to have the ability to solve the problems of the Ute. The Stone People are contacted during participation in Sweat Lodges and, as one woman reported, they can have a tremendous impact on the participants: *"...whatever is said [in] the Sweat Lodge is confidential, you know. We tell them that. We say, "The Stone People will take care of it." You leave it there (in the Sweat Lodge) and let the Stone People take care of it. Don't talk about it out there (outside of the Sweat Lodge) because it's sacred. It's sacred, confidential. People keep coming back ... they begin to get that self-confidence, self-esteem. They use that knowledge to help other people in their life path";* and, *"[Question: What does the Sweat Lodge mean to you?] It's my heart, my soul, my body, everything that's inside of me. It helps me to keep my life strong."* Second, the sweat lodge is a physical cleansing and purification process that by use of a steam bath/natural sauna, helps the participants to eliminate impurities from their bodies through their perspiration. Many Utes reported to me that some non-Indians are attempting to participate in this activity on the invitation from a small minority of Utes. Many of those reporting this activity were displeased that WHITE PEOPLE were trying to "invade" another of their (the Utes') ceremonies. On average within this reservation, however, most non-Indians do not participate in sweat lodge activities. Indeed, it was reported by a number of people that non-Indians are attempting to invite themselves into this

activity but are being rejected as unwelcome intruders. When Ute people do participate in a Ute only sweat lodge, many are reaffirming their connectivity to the Spirit World, which is a critical element in reinforcing their collective cultural and spiritual identities.

### Prayer

Prayer is done in many different ways, during the Sun Dance, the sweat lodges, and in private. Prayer is an important part of this culture as it is believed to be a means by which humans can contact the Spirits and the Creator; those who are believed to have the ability to shape the world and environment of the Utes and the rest of the human population. I did not ask the people to report what they prayed for, how they prayed, and how often they prayed because it was none of my business. It would likely have been detrimental to the subject/researcher relationship. While non-Indians may participate in their own form of prayer practices, it is unclear if they have the same intentions or affects as the Utes experience during their prayer activities.

### Drumming and Singing

Drumming is an activity that occurs during both the Sun and the Bear Dances and is thought to be another means by which the Ute ancestors can be brought to presence among the human Utes. Singing is yet another means to bring the Ute ancestral Spirits in contact with the human Utes. Singing occurs during the Sun and the Bear Dances as well as at pow wows.

These are the major forms of spiritual practices engaged in by many members of this tribal community as evidenced in reports made by tribal members when I conducted the personal interviews. These practices may all work in concert to help form and retain a collective identity held by members of the tribe. As many of these practices are not engaged in by non-Indians, it may be that the resulting collective identity may be what differentiates the Indians from the non-Indians who live in the surrounding area. These practices and beliefs aid in the development of social solidarity among this tribe. The resulting phenomenon is that the tribe, a socially cohesive unit, is better able to support protective barriers to outside influences and to become a more resilient community. The next Chapter describes how the Indians perceive their own tribal government and how it is influenced by traditional and contemporary cultural and spiritual practices.





## CHAPTER 2

### COMMUNITY PERCEPTIONS OF THE UTE INDIAN TRIBAL GOVERNMENT

They're [Tribal Council] trying to deal with the issues the best they can. They're human too and there are only seven of them. They have a lot on their minds. They have to make decisions and sometimes they feel they didn't make the right decision. Imagine they have the whole tribal membership on their hands. I think they're doing a good job

\* \* \*

They [Tribal Council] started the urine test policy a year ago. I think that's the policy that killed everyone. When you're a spiritualist, you're not allowed to give any of your body parts away. You're told everything is sacred about you. They say, "Well you gotta give a urine test." And I say, "I can't do that. Are you crazy?" It's like when you take an oath to the Creator. When they ask for that one piece of hair you can say that you will sway from the path once. But if you're afraid of the Creator, you're gonna honor that one switch of hair because the Creator's anger is worse than having no job, no house. That's why I own my own company. I do highway construction. I don't need no pee test. Are you crazy!

\* \* \*

#### INTRODUCTION

This Chapter describes how Ute people feel about their government and some of the services it provides. I focus on the perceptions the Indians hold of their own government. Information from the non-Indians is, for the most part, excluded because non-Indians are not part of nor under the jurisdiction of the tribal council. This is a significant Chapter because it is only through the government that members can exercise their rights as citizens of the Ute Indian nation. I go on to present further evidence towards my main argument that a collective cultural and spiritual identity is the foundation upon which a resilient community is developed. In doing this, I discuss perceptions

of the tribal government. It is important that the membership perceive their government to be strong and vibrant because without this collective belief their nation cannot survive.

#### THE SOUTHERN UTE INDIAN TRIBAL COUNCIL

As complexities of tribal societies grow the type of power remaining may be perceived as a result of changing community expectations and transference of obligations from one institution(s) to another. Growth of specializations, as Durkheim suggested, would occur. Historically, the tribal council was the centralized power within the community (personal interviews with Ute tribal authorities). After negotiations with the federal government, the Southern Ute Indian tribe accepted the tenets of the Wheeler-Howard Act. The tribal council was then formally recognized as the governing body of the tribe. Prior to this Act, the tribe was federally recognized as part of the Brunot Agreement of 1874. The tribe was then given back jurisdiction over many matters occurring within the boundaries of the reservation (see also *Ute Indians vs. United States*, 330 U.S. 476 (1947)) as is described in this text that appears in the Tribal Code: “The Southern Ute Indian Tribe has jurisdiction over all territory within the exterior boundaries of the reservation as established in the Brunot Agreement which was ratified by the United States Congress on April 29, 1874, and as added thereto by Presidential Proclamation and Executive Order. (Southern Ute Tribal Code, Title 1 General Provisions, § 1-1-107 Territorial Jurisdiction)”

The most significant changes experienced by the Ute Tribe that resulted from the Wheeler-Howard Act was in (a) the changing nature of how appointments are made to tribal leadership, (b) the titles of tribal leaders, and (c) the formalized structure of government and its agencies. Power and authority to govern were again legitimated in the new constitution of the tribe, as the Indian Reorganization Act (IRA) required the ratification of such by the membership. The tribe accepted the dictates of the new law (often referred to as “white man’s” law or the “white man’s creation”) because if it did not do so, it might jeopardize its standing with Congress and the President. Because the tribal constitution must be ratified by the membership, it is the membership who holds the ultimate power within the tribe. Diagram 2 illustrates the positioning of power within the tribe.

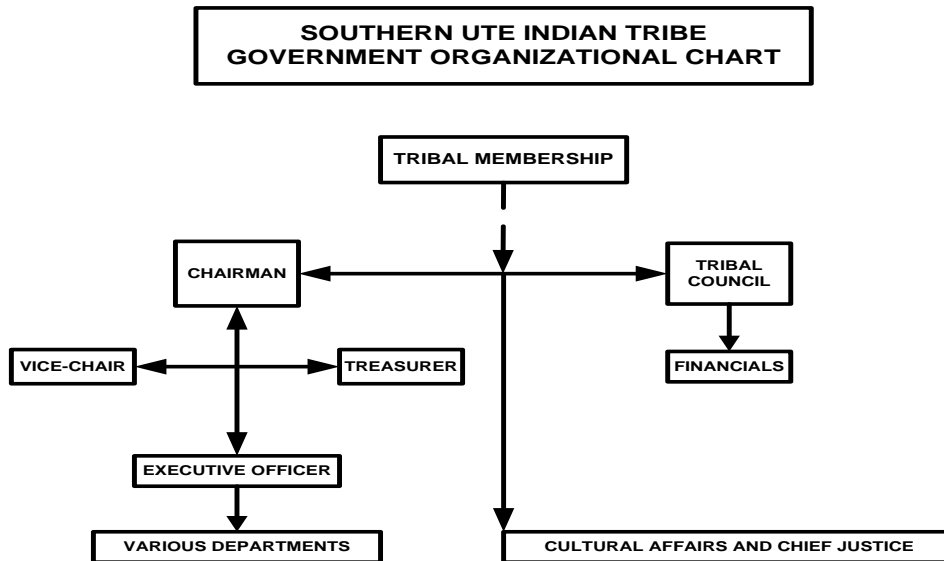


Diagram 2.

Adapted from: <http://www.southern-ute.nsn.us/visio/Org%20Chart%20Master%202008.htm>

The council has a new responsibility not only to negotiate power between itself and the membership but to conform to the competing demands of federal and state law and modernity. An example of this occurred during the Sun Dance (the most sacred of ceremonies). Emergency medical personnel were stationed near the ceremonial grounds. A man told me, *"Like at the Sun Dance and Bear Dance...years ago you could walk a little out of town and actually feel the drums on the ground, not anymore. Last year, they (the council) had EMT's (emergency medical personnel) waiting outside the Sun Dance grounds in case someone passed out. That's not right! In the Sun Dance you're supposed to pass out to receive your spiritual dream."* The council is in a situation where they must preserve and protect the cultural heritage of the tribe but must also abide by state and federal rules regarding public health and safety. We can see that outside governmental interference with tribal cultural and spiritual activities has a negative impact on the tribe. The Indians felt that *"the council is adopting too many outside laws and we're losing our sovereignty."* Others demand that elements of the historical government be retained for the tribes' survival.

Another example of where the tribal council must acquiesce to state dictates is when the council signed a declaration with the state of Colorado to allow the state to review the criminal records of council members. The result was a perceived infringement on tribal sovereignty to self-govern with officials selected by the community. It was reported by another man that *"It was right after they (tribal council) just signed that declaration with the state of Colorado to let go of their (tribally held criminal) records down here, and each one of their (three council members') records got surfaced down here and was reported to the state. They had priors. If they never had signed that declaration, they (the state) would have never known they had priors and they would have all been treated fairly. Now, the state rule is we can't have leaders who have illnesses (alcoholism)."*

Finally, the council is making decisions about eligibility requirements for memberships that follow federal policy but are perceived to be deleterious to the tribe. One example is related to the rules regarding the blood quantum requirement. Conflicting comments such as the following were common, *"They're enrolling kids that just got a little bit of Indian in them. That's messed up! I can't even enroll my kids and they're half Ute! I'm full Ute. The only thing is ... they're spread out. This one here (subject pointed to his seven year old son standing next to him) is Southern Ute, Ute Mountain, and Northern Ute but they don't recognize him. They should recognize him. They tend to be dropping the blood quantum down to 1/8<sup>th</sup>."* While others felt differently than he,

Council decided that they don't want to lower the blood quantum to become a tribal member. They don't realize that what they're doing is that they are slowly going to be the cause of (the demise of the tribe) and that there's not going to be a Southern Ute tribe anymore because there are not going to be any tribal members. It's been a quarter for some time now but they've tried to lower it lower but the tribal members they won't. Take our grandchildren (for example) they couldn't be enrolled. There are only a little over 1,000 tribal members who are enrolled; who are voters and eligible to vote. Someday the federal government is gonna' come out and say "In order for you to be a sovereign governing tribe, you've got to have a certain amount of eligible voters." If they say 2,000 (as the minimum number of voter's required to sustain a recognized tribe) automatically this tribe would lose out. The land will all go back to the federal government because there won't be enough. (Bring it down) at least to a 16<sup>th</sup>. The federal government recognizes up to a 32<sup>nd</sup> and that would continue the tribe because there are not that many full-blooded tribal members left in the tribe. This happened in other tribes. It happened to the Mountain Ute tribe and it's going to happen here ... you used to be able to count on them (council members)... before if you were a tribal member or if you had Indian blood, you could talk to them about anything. Not anymore."

\* \* \*

These comments indicate the council, which has been given power by the membership, must contend with conflicting views of the same matter while, at the same time, shift its focus from them and onto matters often viewed as more important, such as investing for the future of the entire tribe. It was often reported by subjects that the council's focus on other business ventures, governmental obligations, and their attenuate priorities are not adequately explained to the rest of the membership. This leaves many in the community feeling modern tribal council power exists only to be disbursed on unexplained "whims" of council members. One man responded, *"they're the ones who's supposed to take care of the tribal people."* Indeed, it is the government that is supposed to care for its people and some perceived that this

was not being done. A negotiation of power must occur between the tribal council and the citizens it serves.

To be effective the council must have the support of the community and this is an area where power is negotiated. There is conflicting evidence about how much the community actually supports the tribal council. For example, when I asked a man what he thought about the council, he said, “*I think the tribal council is more business oriented and ‘forget the tribal members’ ... let’s invest in this and that ... I think they [the tribal council] need[s] to focus back on the tribal membership.*” The survey data suggests that the Indians were split in their view of the tribal council thus possibly negating the more positive interview data. For example, there were differences within the group; 40.4% of the Indians were satisfied with the council, whereas 38.2% of the Indians were dissatisfied. These differences were significant. More positive reviews of the tribal council, however, were received from the interviewees.

As the tribal council must answer to the membership, power to create new tribal law is shared with the membership. Enrolled members often vote on many initiatives and a majority rules. Sharing power is derived from the historical origins of the tribe. This is done because the tribal council must free itself of extra burdens in order to be effective leaders of the tribe especially when they must interact with federal or state governments. I suggest that the most important reason tertiary power is given over to the police and court is because both the tribal council and the community felt that certain functions are better addressed by specially-trained agency personnel. Many people felt the police and court are the appropriate agencies to respond to and adjudicate legal matters. Many others reported that they would seek out help from the council if they needed support for matters they perceived were not being adequately addressed by either the police or court. For example, many stated the following if they were not satisfied with the police or court, “*I’d go to the council. I’d get satisfied*” because “*they can get things done.*” This is because the council is perceived to “*have more power than anybody,*” and many Indians felt that “*it’s their job to make others do their job.*” Diagram 3 illustrates the governing authority of the Southern Ute Indian tribe.

When asked who should respond to problems occurring in the neighborhood, most (77% or  $n = 516$ ) participants responded, “*the police.*” As a result, the tribal council gives powers to the police and court to adjudicate not only legal issues but cultural and spiritual matters as well. Competing demands placed on the tribal government from the community and state and federal authorities has forced the tribal council to morph into a hybrid of tripartite political power within the community. This means that power within the tribal community is shared while at the same time the primary source resides with the membership. Power within the tribe is similar to a diamond that needs long-term exposure to pressure and heat for it to become the precious yet strong and powerful entity it is now. Diagram 3 illustrates how this tripartite form of power has developed over time with pressure from multiple competing sources.

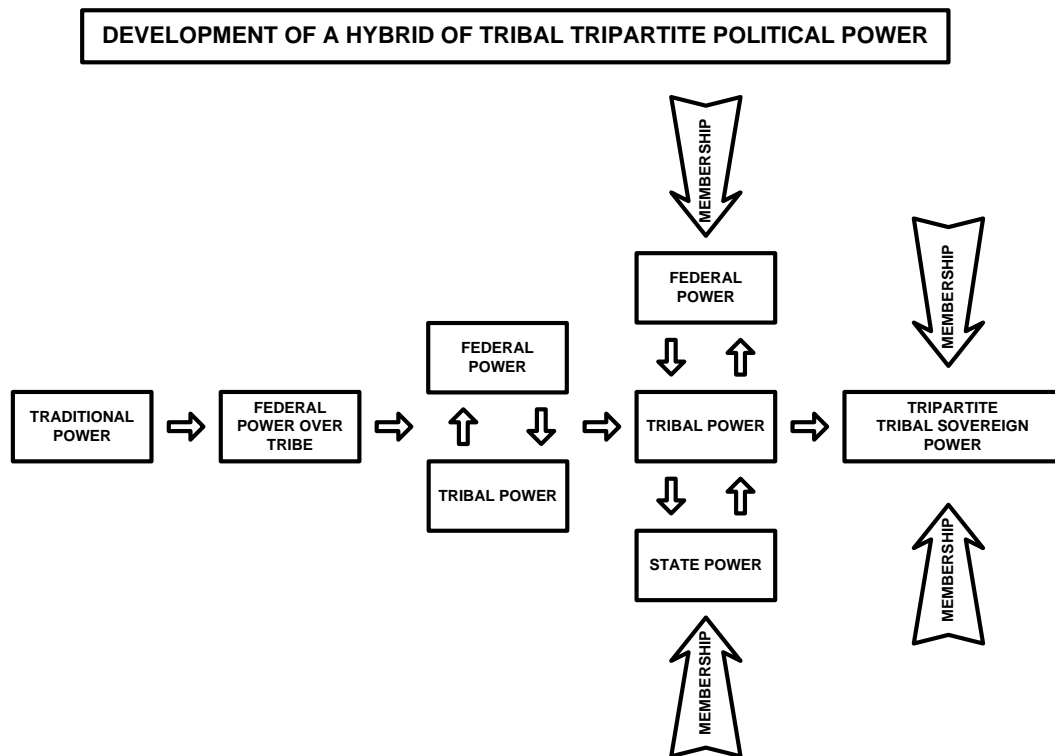


Diagram 3.

Development of Tripartite Political Power within the Tribe

### HOW UTE PEOPLE FEEL ABOUT THEIR TRIBAL GOVERNMENT

Overall, Indians are basically satisfied with their government. There were some negative comments but those were outweighed by the positive and supportive messages I heard from the rest of the tribal membership. Most people in the survey did not express satisfaction with the Ute tribal council. However, the only opinions of the council that really matter are those of the Utes. From the survey, only 39% were satisfied; whereas 35% were dissatisfied and 26% had no opinion of the council. When I asked interviewees about their perceptions of the tribal council, I received mixed views with most being positive.

#### What Kind of Job Do You Think the Tribal Council is Doing?

Most Utes were satisfied or happy with the then-seated tribal council. Comments from most members included, *“for the amount of abuse they get, I think they’re doing a good job”*; *“they’re OK”*; and, *“a few are good, a few are bad – it’s a job!”* As one woman said of the council members, *“people expect a lot of them.”* While others said of the entire council, *“poor things – damned if you do, damned if you don’t”*, and that *“they have so much to do that it’s unfair to criticize them.”* As with any governmental entity much is expected. When those expectations are not met to the community’s satisfaction, some members will be more vocal than others about their

opinions. Often times, the opinions will be negative. It is unusual for governmental entities or their representatives to receive positive opinions except in the form of being elected to office. Even then, being elected is not a good indicator of community satisfaction with the official(s) as it may just be the artifact of being the *“only one running for office.”*

When I asked the tribal members what the council was doing that they approved and disapproved of, they were forthright and provided responses that both coincided with what non-Indian governments hear (or are accused of) and to the idiosyncrasies of a tribal government. Of concern to a good number of members is the perceived lack of communication between the council and the membership. Several pointed out that they only hear about tribal initiatives *“at the last moment”* which indicates that the members may be either ignoring tribal notices or opportunities to speak at approved times during council meetings or that the council is not explaining matters as clearly as the membership would like. It is somewhat unclear where the disjuncture is located but it is clear that some of the membership feels disenfranchised from tribal affairs. This may, however, simply be a matter of miscommunication in the message or misinterpretation of such. Whatever the actual cause, it is not unlike what other non-Indian governments experience.

Issues specific to the tribal government that members perceived pejoratively were related to how the tribe as a whole was developing; the responsibility for which they attributed to the council. Many felt the tribe was *“more like a corporation than a tribe”* and that the council lacked *“vision”* for the tribe. One gentleman expressed his feelings about what the council should be, *“They should just be one big cloud of visionaries because us little people say “Don’t you have dreams no more? Don’t you imagine anymore? I think that’s what they forgot the vision.”* With the council more *“business oriented”* many felt that the over-reliance on *“WHITE PEOPLE and lawyers”* to *“run the tribe.”* Some felt that the council was trying to *“build an empire”* and, in the process of doing so, was skirting its true responsibilities of taking care of the elders and the children. All interviewees felt that the elders are the link to the tribes’ past and the children are its only hope for their future existence. If the council is not caring for both groups, as many perceived is happening, then they are laying the foundation for the end of the Ute people. This is a tremendous responsibility for any tribal government; indeed for any group of people. Much support should be given, a majority expressed, to those chosen by the people to carry the tribe into the future.

There are some obstacles to the continuing and future well-being that are faced by the tribe. Long held stereotypes of Indian people sometimes reinforce non-Indian beliefs about Indians. Alcoholism or heavy drinking, for example, is one such behavior that occurs in all communities and in all levels of society. But when it occurs or is visible in an Indian community, the affect on the tribe is often over exemplified. One example was reported to me by many of the tribal members and is related next.

The Chairman was caught drunk driving off of the reservation. One member said, *“he (the Chairman) gives the entire tribe a black eye.”* This is no different, however, from what commonly occurs in other governments.

Mayors, governors, Congressmen, and a few Presidents of the United States have run afoul of the law and thus given the people they represent a negative image to outsiders. Yet, when a member or leader of a Native American Indian tribal council gets caught engaging in the same behaviors of his contemporary non-Indian colleagues, the group they represent are branded with a deleterious notion that all Indians are ‘like that’ thus leading to the re-iteration of negative stereotyping. When a group is perceived by outsiders to have a negative, yet not entirely baseless reputation, the poor behavior of just one member of that group often leads to the phenomenon that gives their detractors the basis to say, “*See, I told you they (meaning all Indians) are just a bunch of drunks.*” As all Indian groups are aware, the Ute tribe is not immune to this phenomenon. The Indians are thus held to a ‘higher standard’ of behavior because of negative stereotypes that still linger and because they are now, more than ever in the history of Indian and white race relations, scrutinized for 1) being a unique historical artifact often referred to as a “*national treasure*”; 2) because there is a relatively recent resurgence of Indian ethnic identities among former non-Indians whose authenticity is often doubted by the non-Indian culture; and, finally, 3) because there are groups claiming to be “lost tribes” and are under governmental scrutiny for their baseless assertions of Indian-ness and subsequent fabrication of information submitted to federal authorities for the recognition process (Snell, 2007). The pressure resulting from these social facts may be too much for an average person to bear. After all, these are average people serving in the elected positions among the tribal council. Perhaps this is why most Utes feel that both the chair and the council often takes “*too much heat*” for what they are trying to do, i.e., to keep the tribe alive and well functioning. In summary, most interviewees felt confident with their tribal council and even more so with some of the services it provides to them.

## EVALUATION OF SERVICES PROVIDED BY THE TRIBAL COUNCIL

### Education

The tribe has developed an elementary school for its children. Its enrollment is limited to children who are enrolled in the tribe. This is a very popular elementary school and many non-Indians attempt to seek approval from the tribal council to enroll their children to no avail. The Montessori Academy provides cultural training for the children. The elders regularly come to the classes to tell tribal stories to the children. Other elders come to teach Ute dialects and other culturally significant information. The tribal membership views this academy as one of the most important means to assure the survival of the language and culture of the tribe. Indeed, many view the academy in general, and what it teaches in particular as one of the required elements to the future survival and well-being of the tribe. With the continued support of the entire membership, the tribal council seeks to keep their educational program alive. The council also supports a cultural program housed in the tribal museum. This program is available to all members of the tribe; the young and the young at heart. Other programs exist to supplement the educational directives of the tribe. This includes a community action program.



### Southern Ute Community Action Program (SUCAP)

Most people reported using at least one of the services provided by the Southern Ute Community Action Program (SUCAP), which is an umbrella organization sponsored by the tribal council under which many community-based services are provided. Of SUCAP, Indians were again split on the perceived value of this program. About 38% were satisfied, whereas 15% were dissatisfied and a larger percentage (46%) expressed no opinion. However, a plurality of Indians were more likely to be satisfied with the services provided by SUCAP. During the interviews, I received about the same level of satisfaction in the responses to queries regarding this service.

### Food Distribution Services

When asked about the commodities provided to the less advantaged of the tribe, several reported they were satisfied with the quality of the food, whereas many did not use this service. However, those who reported using the service were mixed in their views. Several people reported that they feel they have to get to the food early in the month before it goes stale. Another man reported that he often uses the services but that he supplements this food with wild game he has hunted. Others said that the food was *“good enough to survive on”* and that *“it’s getting better”* with *“buffalo hamburger, potatoes, and stuff you can cook.”* The new manager is doing *“extremely well”* with the food commented several of those who reported using the food services. Fortunately, the members are not totally without other financial resources.

### Financials: Per-Capita Payments (“Per-Caps”)

The tribe has a revenue sharing program whereby some of the tribal profits are shared with its members. This is a nominal amount (less than a couple hundred dollars a month). Most reported using this money to help pay the rent (which is low in that area) or make a payment on a car note, and various other life expenses. While many members are employed, this little extra money helps to cover bills or, simply, they save the money. Most (53%) were satisfied with the *“per-caps”* payments, but there were some (24.6%) who were not satisfied. When asked from where most of the individuals’ income is derived, most reported that it come from their jobs as most interviewees were employed at the time of the study. The vast majority of interviewees reported the following comments about the source of their income, *“from my job”* or *“from work.”* Only a few people reported their income was from social security benefits; which would be the same for any similarly-situated non-Indian, whether they be retired or disabled or both. There were no differences in this area between these Indians and non-Indians. When asked if the interviewees had adequate funds to cover their monthly expenses, half said *“yes”* and half said *“no.”* Again, there were no significant differences between these Indians and other non-Indians. Some people have enough money and some people do not. I then asked the people if, after they pay their monthly expenses, there is usually much money left over. To this question a large majority said, *“no”*; though some indicated that there was some money left over after expenses. Only one person said, *“Yes, we’re very fortunate.”* Again, there were no real differences in incomes between this

tribal community and what would be found in most other non-Indian communities around the country.

To those who indicated they did not have much money left over at the end of the month or not enough to cover their usual expenses, I asked them how they make ends meet. Of that very small group, most reported they get help from the county of La Plata in the form of food stamps, general assistance, or they use the commodities (basic foods) provided by the federal government. Others reported they gather and sell firewood or make arts, crafts or jewelry to sell to the tourist trade. People also receive retirement benefits when they reach age 55.

### Retirement Benefits

About 44% of the elders with whom I spoke stated that they were generally happy with the tribal retirement benefits; whereas 13% were dissatisfied. Most were not in the elders' age group so they naturally had no opinion on this tribally-sponsored benefit. Note that this retirement benefit may be in addition to any other benefit such as social security, retirement from other employers, revenue sharing, and savings. It pays to be a tribal elder. I believe the tribe provides these benefits to the elders because they feel the elders are the keepers of the tribe's traditions and thus its future. As one gentleman reported, "*The elders, they are our closest link to the past.*" While this may be an indicator of the level of respect for the elders, it also makes them open to victimization, in particular financial fraud. This phenomenon will be discussed further in Chapter 5.

### Medical Insurance

For those individuals who work for the tribe, most commented that they are very satisfied with the medical benefits provided to them and that they are adequate for their needs. The insurance allows the members to seek medical assistance outside of the tribe thus allowing them to avoid using the services provided to them by the Indian Health Service (IHS), which is a department of the United States Department of Health and Human Services. Of those using the IHS services, however, most were satisfied. They felt the tribally-provided insurance for vision, dental and prescriptions were "*good*" or "*better*" than the same service provided by the IHS clinic.

The general membership is basically satisfied with most key services provided to them by the council. Keeping tribal community members satisfied helps to reduce community discord and, possibly, reinforces social organization and solidarity. While the overall government is perceived by the members to be satisfactory, changes in the community are occurring that the tribal government may or may not be able to prevent. These social forces are a test of the strength of the cultural identity of the tribal group. These influential social forces strengthen the community. In the next Chapter, I discuss how the Ute perceive the contemporary tribal community in the 21<sup>st</sup> Century with all of its dynamic social phenomena, including non-Indians relocating the lands located within the reservation's outer boundaries and the

ever growing phenomenon of globalization and worldwide social and economic interdependence.



## CHAPTER 3

### UTE PERCEPTIONS OF THEIR MODERN TRIBAL COMMUNITY

My little boy, he's six, gonna be seven next month. He's got lots of friends and this area's real good for him growing up. My 23 year old step-daughter, she's got friends and a life in the community. For us two adults, we got friends in the area. We have our quietness up here and we're kind of left alone and we don't have to deal with downtown. The great part is I got good neighbors. Well, we're all related one way or another. It's all cousins around here. That helps me to keep my traditional life.

\* \* \*

Well, ya know, it's gettn' were people don't seem to get along with each other like they used to. A long time ago we used to go visiting with each other now we don't visit anymore. We used to sometimes stay overnight or something like that; go visit and eat together. Friends that stop by now are not all Native Americans; sometimes they stay a month, two weeks. They just like to be around me I guess.

\* \* \*

#### INTRODUCTION

This Chapter discusses the various views of the tribal community from the perspectives of both the Indians and non-Indians. I illustrate that there are vastly different views of the same community held by both groups. This is important to understand because the differences in perspectives help us to understand why responses to community-level issues may be different between the groups. Before beginning this discussion, it might be helpful to distinguish a community from a neighborhood as I will focus on perceptions of social phenomena on the neighborhood-level. In this Chapter, I only illustrate information that shows the differences in perceptions of the same neighborhood held by both groups. I also discuss how these differences may

affect the collective cultural identity of the Indian residents as attacks on the community are perceived as attacks on the identity of the tribal group.

## THE TRIBAL NEIGHBORHOOD

### A Community vs. A Neighborhood

A community is a social group of people with shared interests affecting the identity of the people and their degree of cohesiveness; whereas a neighborhood is a smaller community located within a larger area. A tribal neighborhood, such as the Ute neighborhoods, contains people who share dissimilar values, norms, customs, and beliefs. The two dominant groups of residents (Indians and non-Indians) of the Ute neighborhood approach the world and respond to it from different paradigms. Part of the difference why the Indians view their world so differently is because for many people their entire social world has been based on where they reside. When asked how long the Indians have lived in their current homes, most Indians responded they lived in their current home from six to twenty years. Table 1 presents the number of years people have lived in their current homes. The length of time is contributory to the stability of the group. Many stated that they have lived in their homes for several generations.

Table 1.  
How Long Have You Lived in  
Your Current Home? (INDIANS ONLY)

YEARS	#	%
Under 1	44	8.1
1 – 5	74	26.3
6 – 20	100	35.4
21 – Over 50	63	22.7

### What do you like about your neighborhood?

When asked to write what they liked about their neighborhood, most survey respondents indicated they liked the “*quiet*,” “*peacefulness*,” “*beauty*,” and “*living in the country*” with “*not too many people around*.” When asked in person, the Indians reported they liked having their family nearby, the mountains and being “*home*.”

### Community Cohesion

From the survey, I asked questions about the level of community cohesion they felt in their neighborhood. I used the same questions that Sampson and his colleagues (1997) used in their earlier study of collective efficacy during the large “Project on Human Development in Chicago Neighborhoods” conducted about a decade prior.

Indians differed from non-Indians about the willingness of people to help their neighbors. Less than half (46%) of the Indian respondents agreed

that “People around here are willing to help their neighbors,” while nearly 80% of the non-Indians answered that neighbors would help. The Indians and non-Indians in this community do not agree that people in their neighborhood are willing to help each other; Indians do not believe their neighbors are willing to help. This may be because Indians feel the social class divide brought into the community prevents social cohesion. Again, Indians differed from non-Indians with respect to this item; 47.9% of the non-Indians agreed that theirs was a close-knit community, whereas 32% of the Indians felt this way. A minority of Indians and non-Indians believe they live in a close knit community while a larger percentage of non-Indians believe this. Indians, however, are less likely to believe that their community is close knit. This is again attributed to the perceived social and power class divide brought into the community by non-Indians. Indians differed from non-Indians when asked about the trustworthiness of people in their neighborhood. Only about a quarter (26.3%) of the Indian respondents agreed “People in this neighborhood can be trusted”; while 56.1% of the non-Indians answered that people can be trusted. A minority of the Indians believe their neighbors can be trusted. A majority of non-Indians believe their neighbors can be trusted. The Indians may believe this because they are aware of the other members’ “*drinkn’ and druggn’*” and, therefore, would not trust their neighbors. Non-Indians may hold this belief because many indicated they felt like they were in an “*ideal situation*” by “*living with the Indians*” and hold unrealistic perceptions of them. Indians differed from non-Indians when asked about the collegiality of people in their neighborhood. More than 30 percent of the Indians agreed “People in this neighborhood generally do not get along with each other”, while 20.2% of the non-Indians answered that people get along. Non-Indians are more likely than Indians to believe that people in their neighborhood do not get along with each other.

#### WHAT DO YOU NOT LIKE ABOUT YOUR NEIGHBORHOOD?

##### WHITE PEOPLE

I think there are a lot of hard feelings towards WHITE PEOPLE. It’s all over. I have to really watch what I say...all these WHITE PEOPLE walking around, and my daughter can’t get a job...they should give her a chance...you hear at general meetings that all these WHITE PEOPLE are making a lot of money. It tells us what we can and can’t do. I’m thinking that’s not fair, but on the other hand, I know a lot of Indian people don’t want to work. Young kids don’t want to work, no job ethics, work ethics or responsibility. You can’t blame the WHITE PEOPLE for wanting to come over here for work for somebody who gives you all these benefits...and have all these holidays, you can’t blame them. That bothers me.

\* \* \*

Yeah, I know it but sometimes we have to help our children our grandchildren because they don’t get much and they have a hard time finding a job...that’s most of the complaint because

...they were getting rid of tribal members and putting non-Indians in there and that's why they were mad; their letting go and their belief that the WHITE PEOPLE are taking jobs and not hiring the tribal members. That's why we have a lot of unemployed people around. That's what's making the crime because they don't have anything else to do. That's when you have domestic violence. I know if you have financial problems you're gonna get frustrated and you're gonna get angry at yourself. You're gonna take it out on the one that's nearest you; your children, your wife, your husband. I know how it is when you don't have enough to feed your family or pay your bills.

\* \* \*

"WHITE PEOPLE" often spoken derogatorily by many Indians (on this and many other Indian reservations), is capitalized to emphasize the negative feelings of Indians towards Euro-Americans. The feelings held by many Indians towards non-Indians has more to do with real and perceived historic and contemporary inequalities in social class and economic standing and much less to do with phenotype though phenotype is the initial instigator of whether one gets targeted as "WHITE." In this tribal community, many Indians perceive a reversal of social class and standing because, while on the reservation, Indians are the dominant group. The non-Indians perceive this reversal of power and, in an effort to save what Goffman (1967) described as one's "face," the non-Indians attempt to save their "cultural "face" by developing a superior attitude towards their Indian neighbors (Abril, 2008). The non-Indians make subtle racially-based notions and develop semi-superior perceptions of the expressed behaviors and norms of the now dominant Indians. Finally, there is evidence that the influx of WHITE PEOPLE and "half breeds" (mixed race Indians, Ute dialect: nunavaytum) into the lives of Utes is not welcomed by all Ute Indians (Subject statement written on survey questionnaire that ends with the statement about WHITE PEOPLE: "*We want them out!*").

The worst one (encounter with police) was when I had shot the neighbor's dogs because they were killing our chickens. And the neighbor woman came over and D\_\_\_ (the subject's wife) was going out to shot another dog and she (the neighbor women) jumped the fence into our property, which is tribal property. And their property is private property. And she jumped the fence and threatened D\_\_\_ with bodily harm and everything else. And we called the Southern Ute police and it happened to be a WHITE officer who worked for the Southern Ute Police and he came out. He said that he had to see the incident happening in order for him to do anything about it. I believe that he was wrong. I still say he was wrong. He would not protect us even although he was working for the tribe. I strongly believe he did it because he was WHITE! The other person was WHITE, too!



\* \* \*

## HOW DO YOU FEEL ABOUT THE ETHNIC MIX IN YOUR NEIGHBORHOOD?

When asked face to face how they felt about the ethnic mix in their neighborhood, the Indians reported varying views. Many reported the ethnic mix was “*fine*” or “*it’s cool*” or “*ok*” or “*It’s all right because it’s all Indian.*” As one surmised many others’ sentiments, “*It don’t bother me because where I come from it’s just straight Indians ... there ain’t no WHITES.*” Other Indians felt there was some social benefit for ethnic and cultural integration as reported by one subject, “*When we have mixed ethnic communities, the kids tend to get along a lot better in life, even if you move off the reservation away from here because there’s all kinds of people out there.*” Others commented, “*we were taught to adapt and to survive, to find a way to continue through this next generation*” and “*it’s really kind of an interesting situation for a lot of us*” this said with the underlying tone of the cultural conflict occurring in this neighborhood.

I just don’t think our community is tri-ethnic wise. Even though we have the words, or signs up saying we’re a tri-ethnic community, we’re you know a single community. We’re still aren’t because it shows in our school system; Ignacio public school system. It shows in there that the Indian kids are not treated fair and they’re not being educated to their full capacity. They’re not given the encouragement and we’re not really listening to our kids.

Ambivalence was expressed by many in comments such as “*It can’t be changed. It’s just the way ... the way history has evolved us to this point in time ... we have some problems keeping our culture alive ... culturally, it really hurts us ...*” or “*It’s kind of discouraging ... how can you preserve your culture when you have non-Indians coming in?*” Many more, however, reported feeling dismayed at the ethnic mix and the associated changes in the tribal community that are perceived to be a result of the increase of ethnic diversity in the rural area. Common comments included, “*... it bothers me ... the fact that others ... non-Indians ... are moving in on us.*” Finally, there were many other Indians who felt hurt or angry at the infusion of others’ cultures into their tribal community. When asked if he liked the different cultures in his neighborhood, he responded, “*It’s the only thing I don’t like.*”

Several reported that the infusion of other races into the tribal community has had and will continue to have long-term negative repercussions. One woman reported, “*I think we’re all dying out. I’m a full-blood. My oldest daughter is a full-blood. She’s Ute Mountain and Southern Ute. My parents have grandkids who are white, black, a couple of them are Navajos and a couple are Omahas.*” Another woman reported, “*The problem with us today is that we are mixed, some Mexican or Spanish or other Indians, other bloods. I think it’s wrong. My cousin is half Navajo and half Ute but he*

*doesn't follow the Ute ways, instead he follows the Navajo ways. Be who you are. Be Ute. We come from a very special place. We come from this reservation, this area, the mountains. Our beliefs should be strong and stay strong. The kids want to be Black or they want to be Spanish. I tell my sister that it's ok, but you got to remember that you are an Indian. You're Southern Ute, that's who you are. Nothing should ever change that."* One man told me, *"In the next five years there's not going to be an Indian that's as dark as me. They're gonna be cut with Mexican, White or Black. The Southern Ute tribe has survived ... the Capote and Mauche Bands have survived for so long without outside agitation, now we got it all over the place. We're losing our identity because of it."* Finally, one woman spoke of the effects of non-Indian cultures on her own identity and life, *"I realize that I'm an Indian. Every day is a hard day. It's a hard life to be an Indian because you have to try to fit into two worlds ... the way you think, the way you pray, the way you try to raise your kids."*

When asked under the anonymity of the survey responses from the Indians tended to change. This is also where much of the underlying sentiment about the Indians and non-Indians was expressed. I requested each survey subject to write in how what they disliked about their neighborhood. Many responded, *"mostly all the WHITE PEOPLE," "too many neighbors (whites) moving into the area", "too many from other cultures", and "WHITE guys."* Others reported they disliked the *"non-Indian neighbors who think they are better than us and they try to abuse our lands."* Racial tensions and discrimination were cited by many Indians. Some reported they disliked the *"discrimination against tribal people"* and *"there's a lot of prejudice and discrimination going on underneath the surface, under the cover ... from WHITE PEOPLE ... it's kind of got more out in the open than it used to be (discrimination) ... it still goes on, you can't say it doesn't."*

Discriminatory attitudes were evident from the notations made by the non-Indians in the survey who responded to the item that asked about what they disliked about their neighborhood. Comments such as *"trashy Indians," "laziness, lack of pride by the Indians," "their (Indians') lack of community pride," "people not working," "high rate of alcohol and drug use," "neighbors are thoughtless and irresponsible," and "all the (Indian) kids are thieves"* were common responses by non-Indians. *"Racial prejudices against whites by Indians"* because *"they (Indians) only socialize with their family"* are two examples of how *"the tribe is trying to segregate the community."* To exemplify this sentiment, one non-Indian wrote, *"I don't think there should be any differences in Native American laws and those for everyone else."* Finally, one non-Indian wrote she disliked, *"the violence, drug, racism, and lack of family values,"* while another wrote *"they (the Indians) just don't share the same values."* Indeed, the Indians do not share the same cultural values as the non-Indians.

### Shared Values?

Indians differed from non-Indians with respect to the sharing of values among their neighbors. Almost half (49.2%) of the Indian respondents agreed that *"People in this neighborhood do not share the same values,"* while nearly

30% of the non-Indians answered this way. A little more than a quarter of both Indians and non-Indians (26.2% of the Indians and 26.8% of the non-Indians) neither agreed nor disagreed with the statement. About a quarter (24.6%) of the Indians disagreed with the statement, whereas 43.2% of the non-Indians felt this way; which means that the results reported are probably reflective of actual differences between the sentiments of Indians and non-Indians. Indians are more likely than non-Indians to believe that people in their neighborhood do not share the same values. Table 2 illustrates this information.

Table 2.  
People In This Neighborhood Do Not Share the Same Values

INDIANS			NON-INDIANS		
	N	%		N	%
AGREE	152	49.2	AGREE	106	29.9
DISAGREE	76	24.6	DISAGREE	153	34.5
NEITHER	81	26.2	NEITHER	95	26.5

Abril, Julie C. (2005). The Relevance of Culture, Ethnic Identity, and Collective Efficacy to Violent Victimization on One Native American Indian Reservation. Ph.D. Dissertation. University of California, Irvine.

#### Are You Active In Improving Your Neighborhood?

Overall, most (59.9%) respondents in this study were not active in improving their neighborhoods while 40.1% reported they are active. About 31% of the Indians reported they are active in improving their neighborhood, whereas 47.5% of the non-Indians reported this. This means that more non-Indians than Indians who reported being active in improving their neighborhood. Among those reporting being active in their neighborhood, the most common way they are active is by taking care of theirs and community property, participating in neighborhood watch, and looking out for the children in the neighborhood. Differing views of what constitutes community activism were evident.

#### Who Should Respond To Problems In The Neighborhood?

Overall, most (76%) respondents felt the police should respond to the problems in their neighborhood. Only 7.9% of all respondents felt the government (federal, state, or county) should respond to the problems in the neighborhood. The remaining respondents were split on who should respond to neighborhood problems; 5.9% felt it should be neighborhood members in groups, 5.7% feel individuals should take care of problems themselves, and only 3.9% of all respondents feel that the tribal council should respond to neighborhood problems.

There were differences between the Indians and non-Indians on these matters. Many more Indians than non-Indians felt the tribal council should

respond to neighborhood problems: 7.3% of the Indians supported using the Southern Ute Indian Tribal Council, compared to only .9% of non-Indians. Interestingly, only 3.6% of the Indians think that the federal, state or local government should respond to neighborhood problems, whereas 11.6% of the non-Indians feel this way. This means that most people feel the police should respond to neighborhood problems.

### If You Had A Crime Problem In Your Neighborhood,

#### To Whom Would You Turn?

While both groups overwhelming (76%) felt that police should respond to neighborhood problems, the Indian interviewees felt somewhat differently with a slight variation of views. When asked if they would turn to the tribal council if they had a crime problem in their neighborhood, the interviewees said yes and made the following comments, *“because they seem to have more power than anybody”*; *“because they’re over the heads of the police and court,”* and *“only if the police and court will not do anything.”* Again, similar to the survey respondents, the interviewees reported that they would turn to the police first for solving neighborhood problems. Common comments included, *“that’s their job, they should be able to carry that job out,”* *“they’re the ones that have the authority to come out and arrest somebody,”* and *“I’d turn to the law, tribal or city police.”* Finally, when asked if and why they might turn to the tribal court first to respond to neighborhood problems, most said, *“No, what is the court gonna do?”* and *“You have to follow chains of command, you just can’t go right to the top (the tribal council).”* There were, however, people who would respond to problems in their neighborhood by their own means and made comments such as, *“I would try to resolve it myself”* or *“with my neighbors.”* A couple even reported that they would not turn to any entity because of their own criminal records. Unfortunately, this leaves a group of ex-offenders who may be targeted for victimization and thus are more likely to re-offend because they perceive they have no legitimate source of protection to turn to when they have a neighborhood problem.

In this Chapter, I have discussed how views of the same neighborhood and its ethnic mixture affect the collective cultural identity of the tribe. The influx of non-Indian values and paradigms attacks and wears away the collective Indian identity. I also discussed how the collective cultural and spiritual practices shield the collective identity of the tribal group. In the next Chapter, I discuss tribal perceptions of the Indian criminal justice system. Here, I argue that how the criminal justice system is perceived as a reflection of the beliefs held toward the government, which is foundational to the unity of this tribal group.

## **CHAPTER 4**

### **COMMUNITY PERCEPTIONS OF THE UTE TRIBAL CRIMINAL JUSTICE SYSTEM**

It's good in one way and bad in another. Two years ago one of the police officers came over to my home. They were at my daughter's trailer so I asked them what they wanted. The police officer told me they were performing a welfare check. I said, "Well, my daughter's over 21. And the officer said, "Some of her friends called the police department and told us that the last time they saw her was at the Tee Pee bar with a guy." The same guy that was arrested for assault and he was caught in the act of forcing a woman into his truck. He had her mouth taped and her hands. My daughter's friends thought she was with him. I was really upset. I went looking all over the place for her. I couldn't find her, so I goes home. The police told me they found her and that she's OK. That was the best news, ya know! I was just so happy I started crying.

\* \* \*

#### **INTRODUCTION**

The purpose of this Chapter is to present the perceptions held by the Indians of the Ute Indian tribal criminal justice system. As they are often the only group under its jurisdiction much focus is on the Indians' perspective. While the overall government of the Southern Ute is the face of the tribal nation to the world, the face of government most seen by the membership is the criminal justice system. It is the overall view of the membership that specific elements of the justice system should respond to community problems, in particular, the police. I next discuss the overall community perceptions of the Southern Ute tribal criminal justice system and how the system addresses the community's needs. Here I argue that how the criminal justice system is perceived as a reflection of how the government is perceived; which is a reflection of the healthiness of this community. Criminal jurisdiction in Indian country has a long history. Adding to what was

discussed in Chapter 3, I next discuss contemporary tribal criminal jurisdictional development.

## DEVELOPMENT OF CRIMINAL JURISDICTION IN INDIAN COUNTRY

### Brief History of Criminal Jurisdiction in Indian Country

Development of criminal jurisdiction in Indian country is one of the most dynamic yet static features of legitimate political authority among Indian tribes. I provide a brief examination of development of tripartite criminal jurisdiction. Tripartite jurisdiction is characterized by jurisdiction by federal, state, and tribal governments. Pevar (1992) identified four basic principles governing jurisdiction over criminal matters in Indian country. First, “a tribe’s power to punish its offenders is part of its inherent sovereignty” (Oliphant vs. Suquamish Indian Tribe, 435 U.S. 191 (1978)); second “the tribe’s power is inherent but can be restricted by Congress” (Pevar, 1992:130); and third “an Indian tribe lacks jurisdiction over non-Indians” (Pevar, 1992:130). Finally, “a state does not have jurisdiction over tribal members on the reservation,” except for those reservations located within states governed by Public Law 83-280 (Pevar, 1992). Public Law 83-280 covers a handful of tribes who elected to have the state provide law enforcement and other services instead of the federal government. The General Crimes Act of 1834 (also known as the Indian Country Crimes Act of 1834, 18 U.S.C.A. § 1152 (1885)) and the Major Crimes Act of 1885 (18 U.S.C.A. § 1153) gave jurisdiction over specific crimes to federal agents. Such crimes included both murder and other types of crime generally considered to be modern day felonies, as well as practicing spiritual ceremonies (e.g., the Ghost Dance) that were perceived by the then-United States Calvary to be anti-American and war-like.

Ex parte KAN-GI-SHUN-CA, (otherwise known as Crow Dog) (109 U.S. 556 (1883)) was a case that sought a ruling on the constitutionality of adjudicating Indians for serious crimes committed by them while within the boundaries of an Indian reservation. The United States Supreme Court ruled that federal authorities did not have jurisdiction in this matter where one Indian, Crow Dog, was accused of killing another Indian. In response, Congress passed the Major Crimes Act (18 U.S.C. § 1153 (1885)) in an effort to further control Indian behaviors and to codify the deleterious values held by non-Indians toward Indians. Lesser crimes involving parties who are both Indian are generally under the jurisdiction of tribal authorities. But this is not always the case. It has been reported that some tribal courts will detach elements of a felony into several misdemeanors. This is done to keep the offender under the tribal court’s jurisdiction on the reservation. It is often perceived by various Indians that punishment of an offender within the tribe is more beneficial (i.e. more rehabilitative) to the offender than punishment from non-Indian authorities (personal interviews, 2002). It is upon this foundation that the history of adjudicating legal matters among the Ute is next discussed.

## POWER OF THE PEOPLE

### Power

What is power and how is it defined? Many scholars have tried to address these questions with most leading to some generalized notion of power being the ability of an entity (either an individual or group) with the means and desire to control the behaviors of others either directly or indirectly. Power can function to control and dominate. Foucault (1961) identified how power is exercised with intention. He believes that power includes actions that interfere with others'. He claims that belief systems gain acceptance and power when the belief system becomes common knowledge. Lukes (1974) outlined three dimensions of power: (1) one dimensional and is usually exercised by formal institutions, (2) two dimensional and can use influence, manipulation, authority, and coercion, (3) three dimensional that must be inferred from its repercussions and ideologies are powerful but not always explicit. In this section, I discuss how each of Lukes' three dimensions of power have been used to create the modern tripartite form of political power found on this reservation.

In this discussion, 'ultimate' power is used as it was determined by the United States Supreme Court (USSC) rulings in *United States vs. Kagama* (118 U.S. 375 (1886)) and *Lone Wolf vs. Hitchcock* (187 U.S. 553 (1903)) when it decided that the United States had plenary power over Indian tribes. According to the USSC, plenary power is the full and complete power of the United States over Indian tribes (see also Black, 1990:1554). An example of an expression of plenary power is when an agent of the United States is required to ratify tribal elections thus undermining the inherent sovereignty of a tribal nation or requiring that elected tribal officials be subjected to federal and state background checks, thereby infringing upon a tribe's inherent sovereignty to choose its leaders.

Hansen and Stepputat (2006:305) summarized Durkheim (1933) in his comments about the production of state authority in that law is a production of sovereignty. They write, "this is highly true and "even more pronounced in much of the postcolonial world." Yet, in their analysis of Michel Foucault's (1997) ideas about democracy, Rose, O'Malley, and Valverde (2006:83) state that "governmentality was understood in the sense of techniques and procedures for directing human behavior" as opposed to government being an instrument of sovereignty. While Brass (2000:308) found Foucault's (1961) ideas of "engaged free individuals" a "practice of a pastoral state" as opposed to an aggressive one, such as the United States is perceived to be. The idea of tertiary power is discussed next.

### Tertiary Power

Many federally-recognized American Indian tribes must have in place democratically-elected governments. Tribes with these have usually established three-pronged governments and agencies to serve the missions of each of the executive, legislative, and judicial branches. The Southern Ute Indian Tribe has one such government. Before beginning this discussion, it

might be helpful to define some of the key concepts I use here and later in other Chapters of this book.

Tertiary power is power derived from codified law. The concept of tertiary power emanates from Georg Simmel's (1964) work. Simmel identified three types of social control, based on three different sets of mores namely morality, custom, and law. He further identified three levels of social control: primary, secondary, and tertiary. Simmel's concept of tertiary power is especially germane to this discussion. It embodies the type of authority, i.e. Max Weber's (1964) "legitimate authority," over certain incidents where power is negotiated between tribal members and agencies of social control on the Ute Indian reservation. Tertiary power or social control can be defined as the actions or threats of such made by tertiary agents or agencies (like the police and courts) when they exert the power that has been vested in them by the community they serve. Lukes (1974) identified this as "one dimensional" power. Legitimacy of the use of tertiary social control is obtained through law, both tribal and federal. Following Durkheim (1933), establishing tertiary control involves an act of social solidarity resulting from a collective decision to vest power in agents of social control. Lukes (1974) identified this as a "second" dimension of power. The rationale behind tertiary power requires a "give-and-take" relationship on behalf of both the community and the agents of tertiary institutions. Negotiation of tertiary power occurs when formal agents of social control accept community demands to respond in certain ways to specific matters that may involve performance of duties once thought to be outside the boundaries of the traditional governmental and law enforcement arenas. An example of such is the community's demand upon police to respond to spiritual matters and the agency's response in doing so. This might be identified as an example of Lukes' (1974) "third" dimension of power.

With regard to the relation between society and tertiary agents, several assumptions can be made. First, it is assumed that everyone in the society, or at least the majority of its members, implicitly agree on the legitimacy of the tertiary power and the agents wielding it. Second, it is assumed that members of the society will acquiesce to the commands of those vested with such power. Third, it is assumed that members of the society have helped to create the law that provides for the establishment of such agents of tertiary social control. In summary, the power of institutions and their agents is a result of the legitimated authority given to them by the collective majority. Therefore, ultimate power resides with those who granted such power to the agents of the institutions. This means the populace has the ultimate power. Refer back to Diagram 2 in Chapter 2 that illustrates the location of the tribal membership (on top) in reference to the Ute tribal council.

### Authority

In this discussion, authority is defined as the legitimacy of power. Others regard authority as formal power and as sanctioned or codified power. In his work, Weber (1964:124), defines four bases of legitimate authority: 1) "traditional," 2) "by virtue of affectual attitudes," 3) "a rational belief in its absolute power," and 4) "because it has been established in a manner which is recognized to be legal (emphasis in original)." In the discussion of the fluidity



of the power shifts that have occurred on the Southern Ute Indian reservation, I suggest that power in this Indian community was initially characterized by, using Weber's term, "traditional authority." As relations between the tribe and the federal government began to formalize (as a result of enactment of Public Laws, specifically the Brunot Agreement of April 29, 1874 and the Wheeler-Howard Act of June 18, 1934 (also known as the Indian Reorganization Act or IRA)), legitimacy of authority also shifted. Authority began to be based upon Weber's idea that legitimacy can be achieved based on the idea that it is "recognized to be legal," i.e. as a result of Congressional mandate. As power and authority over the tribe was legitimated congressionally and by Presidential mandate, it was forced to accept the tenets of various Public Laws. In an effort to preserve traditional cultural norms, values, and beliefs, the tribe, within its limited capacity as a "domestic dependant nation" (see *Cherokee Nation vs. Georgia*, 30 U.S. 1 (1831)), has made strides to employ authority that is legitimated (a) traditionally, (b) "by virtue of affectual attitudes", and (c) by methods "recognized to be legal." Such include tribal elections.

### Democracy

Democracy is conceived differently by many and as so is largely based upon the type of political structure and foundation that exists within the society examined. I conceive democracy as the ability of the governed to engage in active and unfettered participation in the development of their government (see also Schneider & Ingram, 1997). My definition is germane to this discussion because the historical origins of the Ute Indian tribe included one of the simplest forms of democracy, i.e. direct democracy. The function of democracy in the early history of the tribe was to provide all members with an opportunity to participate in their own governance. The concept of the 'consent of the governed' is based on the government's legitimacy and right to use its power which has been given to it through the consent of the people. John Lock's (1974) idea of "free and equal" citizens can only be so if they could legitimately exercise power over another.

Democracy has not necessarily been the reality for Indians who have lived under the democratic notions and limitations provided to them by the federal government. Look to the official definition of democracy provided by the United States Department of State (2007) which reads, in part, "consists of a set of process and procedures that have been molded through a long, often torturous history" (United States Department of State, 2007). We see the ideal of democracy yet the reality of democratic political relations between Indian tribes and the federal government is quite different. Other writers (Chambers, 2003:321), argue that "diversity theory has changed democratic theory" and that "this has to do with confrontation with other peoples, cultures, and identities." While Robert Dahl (1961:277) suggests that democracy is "for the good of all" (McFarland, 2007:45). How democracy is used in the Ute community depends largely on the will of the people to exercise their ideals. How they perceive their justice system can either be an affirmation or an affront to those ideals.

## PERCEPTIONS OF THE UTE CRIMINAL JUSTICE SYSTEM

### TERTIARY AGENTS IN A TRIBAL COMMUNITY

Today, tertiary agencies in a tribal community include the police and court. These agencies perform duties that were traditionally carried out by the tribal council and by a small system of Sub-Chiefs and spiritual leaders as was discussed in Chapter 1. Some of these duties include the following:

- Punishment for offenses against the tribe, monitoring of community behavior, and other methods of social control were once the responsibility of the War Sub-Chief. The tribal police now regulate community behavior and apprehend offenders, while the tribal court determines punishment for social law breaking.
- The tribe's spiritual leaders, usually the Medicine People, traditionally dealt with violations of tribal values and beliefs, such as killing a white buffalo. The tribal court now adjudicates matters involving desecration of Indian cultural icons.
- Spiritual matters, such as communication with Indian spirits, were traditionally the responsibility of both the spiritual leaders and certain participants in the tribe's ceremonies. Today, tribal police are often called upon to respond to certain tribal spiritual matters.
- Cultural matters were once the sole responsibility of the tribal council. Today, the tribal police, courts, or their designees (such as the cultural preservation officers) are responsible for the regulation of these affairs.
- The ultimate power within the tribal community has always rested with the membership. Today, certain judicial powers (such as the power to impose punishments for criminal offenses) rest with the chief justice of the tribal court.

The above are only a few examples of where power in the tribal community has historically been vested with the people. Table 3 illustrates how various types of social matters that occur in the tribal community have moved from the jurisdiction of traditional to modern agents of tertiary power as a result of evolving community expectations and differential criteria imposed by the federal government and tribal law. Within the Ute tribe, the community demands both legal protections afforded by modern agencies and their agents as well as incorporation of traditional methods of social control.

Table 3.

Changes From Traditional to Modern Agents of Social Control in the Southern Ute Indian Tribal Community

Social Matter	Traditional Agents of Social Control	Modern Agents of Social Control
Crime & Deviance	Tribal Chief, War Sub-Chief, Medicine People	Police & Court
Spirit Entities & Spiritual Matters	Medicine People	Police who are tribal members & Medicine People
Juvenile Matters (e.g. delinquency)	Tribal Elders	Police Juvenile Officer & Probation Officer
Disrespect of Tribal Elders	Tribal Council, Elders, and the entire community	Police Juvenile Officer, Juvenile Court & Probation Officer

The competing desires of the community are expressed in the functions and structures of the institutions in a number of ways. The tribal court is situated to allow more community involvement. Unrelated community members such as tribal elders, tribal council members, and families, for example, are involved as intermediaries in certain court cases. Punishment such as imprisonment in the tribal jail is required to maintain standards that do not violate the 8<sup>th</sup> Amendment, yet involve rehabilitative programs that are culturally-relevant. Euro-Americanized sources of social control are standard but they are required to have a significant infusion of culturally-specific attributes.

The Wheeler-Howard Act of June 18, 1934 (also known as the Indian Reorganization Act or IRA, 48 Stat. 984 (1934)) abolished the system of tribal chiefs and replaced it with leaders whose titles were now similar to non-Indian bureaucrats (such as President, Chairman, Governor). Only then was power of the tribal leadership officially recognized by Congress and the President of the United States. Today, power is vested in those individuals who are either elected to positions on the tribal council or chosen to be the tribal Chair. Only enrolled members of the tribe have this power. It should be noted that the power of women in the tribe has been constant since time immemorial and is evidenced by the election or appointment of women to major leadership positions. For example, the chief justice of the tribal court, several of the tribal council members and, during the time this study was approved, the tribal Chair

were all women. Currently, the Director of the entire Southern Ute Indian Department of Justice and Regulatory is a woman. Gender equality in the tribe forces a power equilibrium that requires unwritten negotiations between genders, as well as with tertiary mechanisms of social control as the mechanisms often require responses from both genders. For example, the tribe has a female officer who is also an enrolled member. This officer often is called to respond to cultural and spiritual matters. Several people reported that they have called this officer to their property to respond to spirit entities they have seen. More discussion on the relevance of women to the modern justice system follows later at the end of this Chapter.

As the tribal membership often gives power to those individuals who have earned it, power is taken from those who have transgressed in the eyes of the membership. An example of this collective power is the recent removal from office of a Chairman who had been caught driving while intoxicated. Some people reported that this Chairman was not removed because he drove drunk, but because he used tribal resources (the tribal lawyer) for his personal benefit. The new Chairman was chosen even though he is advanced in age because his reputation was unfettered in the eyes of the membership. Members of the tribal council are often those most respected by the majority of the membership and the community usually accepts the judgments of the council.

The basis of the legitimacy of institutions of social control in traditional societies comes from the collective ideology of its members that power comes from “tradition” and the “sacredness of authority” (Weber, 1964; Simmel, 1964). Conversely, power in the United States society is primarily based on codified law or “legal authority” (Weber, 1964; also see Spencer, 1970). The implications of this mismatch within a single larger jurisdiction are at least threefold. First, an obligation of the federal system is to preserve and protect tribal cultures and their recognized institutions regardless of the basis of their real or perceived legitimacy. Preservation of legal systems whose legitimacy may be at odds with the dominant societies’ appears on the surface to be contrary to the ideology that the dominant society is just that, dominant and not subjected to subservient or lower-tiered ideas about the legitimacy of its power or the power of those institutions which it protects. Second, when the dominant society legitimates the variety of sources of power among subservient groups then it extends its own legitimacy to the lower-tiered groups. One might think that this is not an ideal circumstance in the eyes of those individuals and/or institutions who desire to see subservient groups stay subservient. Third, it may be unlikely that a dominant society would share its power base with other lesser entities if it were believed that doing so would give over more power to the less powerful if there were no real or perceived benefit to be obtained by the dominant society. Fortunately, a hallmark and ideal of democracy is the ability and desire of the United States society to appear to be doing so. To achieve democracy, the United States must give power to others or they may not participate in desired processes. Giving power back to the Indians may be one way to coerce them to participate in new institutions. Lukes (1974) might call this part of the “second” dimension of power. If the police and court, for example, did not respond to cultural matters, it may be likely that the Indians would not accept the power of the

tertiary agents. Lukes (1974) might, too, infer this as the Indian people using the “third” dimension of power. These implications are the result of the mismatch in legitimacy of power bases between traditional tribal societies and the dominant United States society which has in it further implications for the work presented herein. These issues are significant to my argument that power in the traditional Ute tribal society has shifted from being innate to the historic cultural and spiritual institutions, to being legitimated and, literally being required by federal actions, to a newer hybrid of tribal power that is legitimated by protectionist acts of federal institutions.

## EVALUATION OF THE SOUTHERN UTE TRIBAL COURT

I never been before them. I mean, I was called for jury duty but I didn't got picked 'cause one time I went I only had my two granddaughters. (laughs) One of the persons (on trial) was a buddy of my son and he was sittn' up front and my granddaughter said, “RAY!” (laughs) [Question: They never picked you after that?] No. (laughs)

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Overall, only 22.3% of respondents in the survey were satisfied with the tribal court. Many (58.9%) of all respondents were neither satisfied nor dissatisfied, whereas 18.8% were dissatisfied with the tribal court. There were differences between the groups; 29.9% of the Indians were dissatisfied with the tribal court, whereas only 9% of the non-Indians felt this way. This means that most people in this community are not satisfied with the court. Indians are the most dissatisfied. It might be helpful to know that many respondents in this study had never used the Ute tribal court and therefore did not comment on this service. While the evaluation of the court was mixed, likely due to lack of use, court is viewed as a main source of legitimate power in the community, second only to the tribal council. Indeed, the chief justice of the court answers directly to the tribal Chairman.

Like the police, the tribal court must often adjudicate matters traditionally under the umbrella of the duties of the council or spiritual leaders. For example, the court must address family matters such as supervision of wards of the court, child custody matters, and marital concerns. Common comments regarding why they would go to court included, “*to get custody of my daughter*” or “*I had to go to court for the kids (when they were in trouble)*” or “*Just for the kids. I go for them.*” Historically, the council or the Chief would decide with whom a child must reside in cases of abandonment or death of the parents. Today, the court and its officers must place and be responsible for the well-being of children in need of supervision. One man reported that the court had a profound effect on him during which the same worked diligently to keep a family intact as is tribal custom, “[*What was your most memorable experience with the tribal court?*] “*Well, this memory will never go away for me. We adopted my brother's boy and come to find out he was, had to be on medication and was pretty bad off. It got into my family in here where it almost made me and my wife break up. So, I had to go to court for him. I had to give him up though which is one of the things, you know, it*

*got to me. It was like losing one of my own kids. I couldn't save him, I tried. Nobody else wanted him. I tried for four years and it totally changed my life."*

Historically, during the Bear Dance a woman was allowed to drop her current mate for a new one. Now, the tribal court adjudicates unsatisfactory marital arrangements. As several people reported, the Bear Dance provided an opportunity for women to take affirmative action to rid themselves of a mate. Some women reported the following: *"The Bear Dance ... has its own history in where a man would go with a woman and then he'd stay with her for however long he wanted to stay with her but she had the right to throw him away. They would live with her parents. Everything that he had was hers. When she didn't want him anymore, she'd go look for another husband during the Bear Dance."*

Participation in the modernized Bear Dance celebration increases solidarity among the Southern Utes and reinforces their collective cultural identity. Ridding of a mate is now left to the tribal court with the potential to negatively affect the solidarity of the community by taking away a function of the entire tribe and placing it with a specialized agent. It also serves to relieve the community of certain burdens so that it may be free to exercise individual and collective agendas. Negotiation of power to delegate and to accept obligations is the same as Durkheim's (1933) idea that states as societies mature and become more complex community matters are shifted to specialized agents. These developed in response to growing societal complexity and the community's desire to rid itself of matters beyond the scope of its expertise.

For the court to have legitimate power, however, it must be perceived by the community to be fair and impartial. I found evidence of this in the comments from the interviewees such as the following: *"I think the tribal court is real fair. What I like about the tribal court and the people that work there was that they explained things to you. Regular, everyday people don't know a lot of things about court life, law-wise or like about the statutes that we have here on the reservation. And I think the tribal court is good to explain these things to you;"* *"The court was OK. I'm glad they had that teen court. It teaches kids to feel what it's like to be in court;"* and *"They even helped me out and they made me understand what the other papers were for and they helped my brother. He [the officer] explained to him what he should write (in the court filings)."*

Many people also reported satisfaction with the chief justice of the tribal court. This might also be attributed to the fact that the chief justice is also an enrolled member of the tribe. Comments about the chief justice include *"The woman, I've known her all my life. She's pretty fair"* and *"I think she's alright."* Comments about the other two tribal court judges include: *"they're fair,"* *"I think they're pretty fair,"* and *"they're very fair."* It was reported that the judges take unusual steps to connect with the people who come before them. One tribal police officer told the story of his experience with a judge during a trial for assault. He said, *"The guy I arrested for assault told the judge he didn't know what assault meant so how could he be guilty. The judge then picked up a pen and threw it in my direction and said, 'That's assault!'"*

To the pleasure of the community the court takes unique steps to reflect the values of the tribe. Several commented that the court offers the tribally-sponsored detoxification services to members as opposed to sending them to services provided by the Indian Health Service, which are negatively perceived. This practice is one element that helped lead to the transformation of power on this reservation. Punishments are also perceived to be fair and a reflection of the influence of the community. As one man reported he received “*a big fine of \$500*” and that he “*liked the attitude of the judge*” indicating that the court takes into consideration community social and economic conditions.

The court relies on both formal and informal Indian law to negotiate power between it and the membership. This is done when the court uses the Tribal Code (which is voted on by the adult membership) and transfers to the court power to use members who are familiar with the cultural norms and values to participate in court matters (see earlier citation from the Tribal Code). The power given to the court through the code expedites legal matters and reflects the evolving norms and values of the tribe. In doing so, power is negotiated between the membership and the court for the overall benefit of the membership.

#### EVALUATION OF THE SOUTHERN UTE TRIBAL POLICE

While the tribe has made great strides to improve the criminal justice services provided to its members, it lacks a scientifically-sound method by which to gather crime data. For example, upon visiting the reservation I was provided with a sheet of paper, on which was hand written “Southern Ute Tribal Police Department Arrest Summary for 1999.” I was told by the Chief of Police that these two pieces of paper (one labeled “Criminal” and the other labeled “Traffic”) were “the only crime stats” he has for the entire reservation. I discuss the tribe’s crime statistics in the next Chapter.

Overall, only 43.3% of respondents in the survey were satisfied with the Southern Ute Police Department (SUPD); whereas 18.3% were dissatisfied with the SUPD. There were differences between the groups; 31.3% of the Indians were dissatisfied, whereas only 6.9% of the non-Indians felt this way. This means that most people in this community are not satisfied with the SUPD. It is important to note that these negative perceptions of SUPD are the artifact of the previous SUPD administration that was removed from office by the tribal council. The negative opinions should not be taken to reflect upon the current SUPD administration; which is highly favored by the membership. An interesting bit of knowledge is that one of the police officers (a white man) is favored by the membership for his calm personality and widely-perceived administration of fair and impartial justice in the field; as all police should be. Power in this tribal society has experienced a three-stage shift; from traditional to tertiary to a hybrid form of power that has both traditional and tertiary elements. The following facts suggest that this includes the police. It is important to examine the police carefully because often they are the only contact with government and thus representative of power and authority most people encounter. To be effective the police must be responsive to community concerns. Some comments from interviewees include the following:

In Durango when I was coming out of the bar and I was going into the liquor store, the Liquor World, and I was with my sister and my brother-in-law. And they pulled us over, right in front of the liquor store. They yanked my brother-in-law out of there, the truck. They gave him a sobriety test. He passed it. They yanked me out, but these guys they didn't yank him out like the way they yanked me out. They came and out with guns. [Why's that?] I don't know, I had a warrant they said but I never did. And by the time I was fighting with them, trying to pull the handcuff off, trying not to get handcuffed because I was in the right, when that happened, they handcuffed me just on the one side. And then the dispatcher called back and said, "He's clear." They never gave me an apology or nothing. Then they disrespected my sister because she came out and told them, what is going on? They told her, get back in that truck! That was about it. [How long ago did that happen?] Probably like five years. [Was that your worst experience in your entire life?] No. [What was your worst one in your entire life?] I was at the store in Cortez. I was coming out of City Market and I went behind it. I was going to the carnival. They have a little carnival behind the market, they have a little round up like over there. They were having a carnival and rodeo and all that jazz or whatever. I went over there. I was heading in that direction. I was eating and a cop pulled me over and said, "Stop". But I didn't stop because I didn't have nothing. I wasn't doing nothing wrong. And I went around this vehicle you know because there was people coming and going. I just thought they were stop'n the rest of the people. 'Cause I was eating and I was minding my own business. But, another cop came and they pulled me behind the store and they ended up cracking my tailbone. [How'd they do that?] Pushing me... handcuffed me and pushed me in the back of the truck, where the corner of it, where the tailgate is. And I hit the back right here on my tailbone. [Did you get medical attention for that?] Like the next day. [How long where you in jail for that?] Like two days because the doctor from Cortez asked me what happened. I explained the situation and he got upset. He told me, whenever I go to court (tell the judge what happened) because they gave me 13 charges. I ended up going back to court from all that. The judge let me out because they were in the wrong for doing this. The doctor was there for me. He said, "That can't be self-inflicted. They did that to him." Man that was some pain though!" [What time of day did that occur?] That happened like at night. [That time you got pulled over, what time of day was that?] That was like 15 til midnight because the liquor stores here close at midnight. We were trying to make it to the liquor store.

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Last time it was for a DUI. But the town cop had no reason to stop me. When he did stop me he said, "I clocked you going 35 in a 25." Me and my sister witnessed him standing outside his unit. He saw me make a turn and said I didn't signal which was crap because I know signaled. He chased me around and said I was going 55. He just stopped the car because it looked like it could, it was a Camero. He stopped it because he couldn't see who was driving." [Did you have tinted windows?] Yes. Well, over there in Toawoc, it's a closed reservation you can't drink. One time I was drinking out in the back roads over there in my Blazer and one cop came up in front of me. I spotted him and I thought, "Shoot!" He tried telling me, "You gotta go in 'cause I got you for possession of alcohol and intoxication." I told him I wasn't gonna go but his buddy came up behind me. I seen his buddy came up behind my truck and hit me with a billy-club behind my knee. [Did you get any medical attention?] They threw me in the drunk tank. The next day I did start coming off the buzz. I started feeling the pain in my knee so they took me to the clinic. From the clinic they took me to the hospital. They dropped the charges on me. [Because they had hurt you?] Yeah. [So, what happened to your knee, what's the doctor say about your knee?] "You're gonna have knee problems later on." So far I do have knee problems on my right side. [Have you thought about suing them?] They have a statute of limitations. I should have thought of it, but I didn't. [How long ago did that happen?] This happened back when I was eighteen. [And you're what, 32 now?] Yeah. [And it occurred on Ute Mountain reservation?] Yeah, over there in Toawoc, Colorado." [Was it the tribal police?] Yeah. [Tell me about the police office that arrested you. Was he an Indian or ...? The one over there.] He was a non-Indian. [Do you think his behavior was fair?] No. [Why not?] I didn't break any laws. I had to have broken a law. I wasn't speeding. I did signal. He had no provocation to stop my vehicle." [What time of day did that happen?] It happened at night. [Did he arrest you?] No, he had to call Southern Ute tribal cops to take over his case because I'm a tribal member. [What did they do when they took over?] They did roadside maneuvers. They said well, "I'm gonna arrest you for DUI." The town cop told me to wait there until they showed up. He didn't do anything. [How long did it take them to show up?] It took them about 5 minutes. [And they did the field sobriety tests and all that and you failed them?] Yeah. [Then what did the tribal police do after that?] They arrested me and transported me up here to the jail. [How long did you stay in the jail?] I was in there for less than 24 hours. [Who got you out?] My dad got me out. [Did you have to go to court?] No, my dad posted bond before I went to court. [So, you never went to court on that?] I went to court on it but I ended up serving 90 days on it, with 45 in Peaceful (Peaceful Spirits drug rehabilitation center). [How was

your experience there?] I already been in there once before. If I'm court ordered to do anything, I will not. I will play the game to get through it just to satisfy the court." [Did you find that Peaceful Spirits was helpful?] What I've learned with my history with my drinking experiences and what I read in school and everything, I know the various effects that alcohol can do to a body. And I know how to say it to everybody else but I never applied it to myself. [So, you just listen to what they say and just agree to get by?] Yeah. I B.S. them to let them hear what they want to hear; to get through the program to satisfy the court. [When you were released from the hospital, did they release you from the hospital or back into police custody?] No, I could go home. The charges were dropped, they weren't even filed. [No court or police came to follow-up?] They didn't know about it. [They didn't do no internal investigation or anything like that?] They didn't even do a police report whatsoever. They pushed it beneath the carpet and I just forgot about it." [Is that typical for them?] Well, the last time I was over there, they packed 25 people into a room that only fit maybe 6. [Really? Because they have a small cell or ...?] Yes. [All males right? They didn't mix females?] They stuck the females in a small room about no bigger than this. [OK. You had all those people in the cell with you, what was going on in the cell? What were people doing?] At that time, the water wasn't running. The inmates from this other cell had 16 in there and those guys went up there and they took a shower. Then when they went back, this one guy had an altercation with this other guy he had a problem. He had ran into him before and they went and jumped him on the street. One of those guys in there said, "You remember me?" He went and beat that guy up. The cops took him to the clinic. They said he was alright. He had a bruised eye and a fat lip and a busted blood vein in his eyeball. The cops dropped the charges against the person that got beat up. But they filed charges against the one that beat him up. [And that was the only fight, the only altercation when you were in there?] Yeah. [Was it real tense? Were people real uptight in that cell?] Oh, they were like, "Damn!" talking about it, laughing about it, joking about it. As long as it didn't happen to them, they were just crackn' a joke at it!

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Many reported a negative perception of the police who held office during the previous administration. As a result, the tribal council removed all but a handful of police personnel from the department and replaced those with a new Chief of Police and officers who are members of the tribe (as reported during a council meeting by the then-sitting tribal council to the author at the time of the study). Members now rely on the police due, in part, to the positive efforts of the new administration and the new Chief of Police. As one man reported that he would use the police "*because they do a good job, not like*

before.” Indeed, when asked to whom the interviewees would turn if there were problems in their neighborhood, many replied, *“The police because they say that they’re there to serve and to protect ... if that’s their job then they should be able to carry that job out,”* and *“probably the tribal police. Because it’s the police who you depend on ... who you call and who will go out there in the middle of the night.”* Several people reported that the manner which the police treat them is what makes the community respect the power that has been vested in them. It was common to hear comments such as, *“They treat me nice. The tribal police do really respect me. I love that about them.”* The new positive perception of the police is also evidenced by the community’s interactions with the police when the officers are not responding to calls for service. Many reported they talk to the police on a regular basis during the officers’ routine patrols.

Several people reported satisfaction with how the police respond to them. One woman reported, *“My worst contact was when a police officer came ... when my father passed away. They came to the door and they consoled me that he had passed on.”* [Was it on tribal land?] *“Yes.”* [Can you describe the behavior of the police?] *“He was very nice and sympathetic.”* Others made comments such as *“they make me feel comfortable,”* *“they all treat us with respect, they have never disrespected us,”* *“they let us know what’s going on,”* and *“they’re more concerned for the people than the law.”*

Satisfaction with the police, however, is different from the community willingly giving power over to them. The police must perform their customary duties or the community will respond. Evidence of this is found in the comments made by one man who said *“if the police don’t do their job, I’d go to the tribal court and file a suit.”* Most people view the authority the police have has been given to them by the community. Such comments were common, *“they’re the authority, they’re supposed to be there.”* Yet, when the police do not respond adequately to community concerns, tribal members reported that they are comfortable going to the next level of authority as expressed by one man, *“We put you (the police) in charge of these matters. Go do it. If you don’t, we’ll get someone else to do it, either the council or the tribal court.”* Thus, the police must respond to community expectations that are conveyed either implicitly or explicitly such as in the case when a woman reported receiving a traffic ticket. The woman who had received a citation for speeding from a tribal police officer said, *“I told him, you know this is the rez?”* in an effort to convey the message to the officer that he should not have broken the negotiated agreement between the community and the police to enforce a law against an action that some members do not perceive as harmful.<sup>3</sup>

The police must deal with Indian cultural and spiritual problems because most subjects reported that it would be the police to whom they would turn if anything were wrong in the community. Indians, however, will not grant the police power. There needs to be an implicit agreement (such as

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<sup>3</sup> This view is not held by the majority of study respondents. Most people reported speeding in the neighborhoods to be a very serious problem. The tribal council has since been taking aggressive measures to control this behavior.

being a tribal member or Indian known by many to be just and fair) for the membership to know that the police are deserving of power. Similar to the tribal council, the police must have the support of the community in order to be effective. The survey information conflicts with that from the interviews on how satisfied the tribal community is with its police. If the police are not perceived by the community to be satisfactory then it becomes difficult for the police to be effective crime fighters and peace keepers. Tribal police respond to the standard policing issues but also must respond to cultural and spiritual matters; matters once the jurisdiction of the tribal council or spiritual leaders. Cultural duties of the police might include responding to spirit entities that are part of the spiritual foundation of this tribal group.

Finally, intruders such as “*WHITE people*” into Ute spiritual activities were once addressed by the participants in the ceremonies such as the ceremonial warriors. Today, the tribal police are expected to respond to such cultural invasions. This is clearly an area where cultural and spiritual practices that were traditionally the domain of specific tribal members are now the responsibility of the police. This is, again, done to free other agencies and the community of the added burden of responding to such matters. In a sense, transferring jurisdiction and, ultimately, power over cultural and legal matters to other agencies might simply be viewed by the community as delegation of tasks. As a result of this shift in cultural responsibility, power is negotiated and moved from the community to tertiary mechanisms of social control such as the police.

## EVALUATION OF THE SOUTHERN UTE

### TRIBAL DETENTION FACILITY

I have problems with them (jails) all the time. I'm good when I'm sober. But when I party and stuff like that it gets to where it's either DUI or disorderly conduct. I can't say it's been a worst experience because every time that these things just happen. I think the worst experience is sitting in jail. [Do you sit in the county jail or the tribal jail?] “Both” [Which one do you prefer, if you have to be in jail?] “I'd say it would probably be the tribal jail.” [Why?] Because they have more programs that I can attend. I could go out and I could do work experience. They know me better than the county does, they know my background. I think the longest I did was last year, I did like four months there. [Does it make a difference that there are tribal members who work there?] “No, it doesn't. It's all the same. There are non-tribal members that work there. It all depends on who they are. There are people in there that are against them. I argued with them a lot of times when I was in there. [About what kind of things?] “I'm a diabetic, it's just that they had no knowledge of how to treat a diabetic, what a diabetic needed, what kind of services. [Did IHS (Indian Health Service) come?] They never did. They used to take us

to the clinic. Anyway, when I was up there I got into an argument with them and we had it out. It got to the point where I told them I wanted that nurse to come up to me. So, after that, they started bringing her up and letting her in the jail. She talked to me and helped me out. After I left, there's been other diabetics that have been in that jail also. She comes up and sees them too now. I can't take credit for it, it's just something that I felt that needed to be done. For them to know how it is to be a diabetic and how to treat a diabetic in case something happens. And these detention officers, I argued with them a lot. It turned out alright. I've had it out with them. I've gone round and round with them. It started out pretty good.

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[You said that you spend 30 days in the jail (tribal detention) one time, what was that for?] Assault and battery. [Would you mind telling me about that?] We, my spouse and I, got into it one night. We went celebrating. We went bizarrely. She got out of hand and I helped restrain her and someone helped restrain her and it got to the other way around so I hit her. I told the judge I hit her out of anger and frustration. She was out of control. [What was she doing?] She was fighting with her daughter and arguing around. She just all drunk and I was looking at her all like, you shouldn't be arguing with your daughter, you shouldn't be getting mad about anything because you're all out of it. Come inside, eat and pass out. [How long ago was that?] It's been about 4 years ago. [Did you injury her?] Uh hah (yes). She went to the doctor's and all that and the court ordered that we separate for a couple of months and then they said for me to pay restitution. I told the judge, I said, "Well, I know what I did." I said, it's not like I'm saying that human beings can't make mistakes. I'm not here to be saying that I have an excuse. There is no excuse for what I did. To lose it and all that but the whole point of my understanding is that I saw my mistake and now I know what to do and what not to do. So what am I paying my spouse for? Now I know to get up and walk out the door. Just let me sit there and say just let me come to terms with it. Let the Creator come in and say "Here's the choice and he will offer it for this problem." So now, if she wants to change, or get drunk don't come home. The little guy's not, we don't want to see this. That's the agreement we made now because she still likes to drink and she still likes to enjoy her alcohol. I told her, I can't live with that, I can't do it. [Do you drink?] No, I can't. I have, like I told her, I admitted to myself when I was in jail, that these are the things that caused me to get here. For me to get out of here, I need to do the following things. I need to wake up myself. I need to do a self-check ... a self-internal. [What got you to do that?] Spirituality. Where I come from what I believe in, all that. I

called upon the Creator one day in jail, I looked at him. You know, in my world, you can talk to the Creator anyway you want to be. You sit in jail and they kind of look at you like ... they say, what you doing? I say, well, I'm praying to the Creator that I feel OK after today and that my next 24 days in here will be alright. That nobody's gonna harm me and that none of you guys are gonna try to do anything ... all in all, I'm gonna change because I don't like being in here. So that was my model. I did my restitution, I did my time and now we're back together and ... like I told her, now I know. This is what I think is about human growth is knowing the other person. We been together now for almost seven years now. I told her, I kind of grew up, I don't want to be ... I don't want to wake up sick no more, it hurts. (laughs). [When that happened four years ago, was that on tribal land?] Yes, that was down here, yes. [Do you want to tell me about the police officer that first arrived?] She was kind of alright. I told her what happened and she put me behind the police car and said, you admit to it and I said yeah, there's no harassment, no handcuffs. No nothing, I admit to what I did. I think you better take her to the hospital. I think you better have medical (check her). [Was she (the police officer) a tribal member?] I think so. [How many officers arrived?] Two. One man one woman. [Do you think the behavior of the police was fair?] Yeah. [What time of day did that happen?] This was at night. 10:30 at night. [What kind of injuries did she get?] Bruises. [After you paid your restitution, were you on probation or anything?] No. I never did. This is what I explain to everybody else who comes to me about this: I say, "You know these days you do that out of a fit of anger." I say you told each other that you went out of control that means you lost it. I knew what I was doing and that's different from saying I just lost it. So, that's what I told the judges, I knew what I was doing was what I had to do. I didn't lie either but, if somebody's freakn' out on you, you gotta do something. You can't let them rage on all night until more happens. So we put an end to it right there and then. I told the judge, "You give me fair treatment because I know what I did." So he didn't offer none of these classes or none of that." [Do you think what the court said to you and did to you was fair?] Yeah.

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I got arrested a couple years ago but it was more my younger sister. It was in August and I wanted my niece to go to Denver with us. She was fourteen. We took her to Denver. I bought her school clothes with our own money. I thought I was doing my sister a favor by helping her out because she's got four children to buy school clothes for. When we came back from Denver, my niece didn't want to go home just yet and my sister calls up and she's very aggressive that she wanted her daughter

home right way. I told her to just calm down. She signed a child abduction warrant against me and then I get arrested and thrown in jail. I spent like two hours in jail then I bond out. While I was sitting in the cell, I prayed and I asked ... I was so angry at first, I couldn't believe this was happening to me. All I did was buy school clothes for my niece. But her mom, she uses her like a maid. Her mother is very abusive with her mouth. She smokes a lot of weed and runs around with other men. It's just really sad and that's why she didn't want to go home. I'm sitting in the cell preying and asking the Lord to help me. Show me a sign, something. A few minutes later, the arresting officer called me out of the cell and asked me why niece didn't want to go back and that's where I had a chance to spill the beans on her. They held my niece on the other side of the building. Our stories coincided. They wouldn't release her daughter to her. They called in social services. She's back with her mom now. She straightened up. She lives in New Mexico.

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During my first visit to the reservation, I toured the new detention facility. I was impressed. While it held a large number of detainees at the time, it was quiet, smelled fine, and the food they offered to me was good (chicken soup). The detainees prepare the lunches for the "kiddies," children enrolled in both the Head Start program and the Montessori Academy. I got the impression that doing this for the children made the prisoners feel good. As I was talking to a female detainee, she smiled while cutting the grilled cheese sandwiches because that was what her son would be having for lunch that day at Head Start. She said she likes being able to see her children often while here because in county lock-up there are limited visiting hours. All detainees are Native American and are often transferred to the tribal jail from the county jail if their offense is considered relatively minor such as drunk in public or other such similar level of crime. Many of the detainees held in the La Plata County jail request to be transferred to the Ute jail. However, only Indians are allowed to be held in the tribal facility. Many Indian people reported that they liked the tribal facility better than county because you don't have to "*watch your back like in county or prison.*" They also reported liking the cultural programming and the opportunity to earn their G.E.D. there in the jail.

The detention facility holds both detainees and sentenced offenders. It offers the offenders the opportunity to stay in their community and have regular family visits. It was nice to hear that all Ute offenders are allowed to leave the jail unrestrained so that they may attend tribal ceremonies. The prisoners are also allowed to leave the facility to seek treatment at Peaceful Spirits, a tribally-sponsored substance abuse treatment facility located across the street from the detention center. The tribe spends a substantial amount of money to provide the very best substance abuse treatments for its members who have this type of medical problem. I did not conduct any interviews with detainees as I did not have Institutional Review Board permission to do so. I

was just walking around the jail and people started to talk to me just like they did when I walked around in the community.

## EVALUATION OF THE UTE CRIME VICTIMS SERVICES UNIT

Overall, only 18.5% of respondents in the survey were satisfied with the Crime Victim's Services Unit of SUPD, while 10.6% were dissatisfied. This means that most people in the survey were not satisfied with the Crime Victim's Services. Let me put this into perspective. Most people I interviewed and surveyed never used this service. Of the interviewees who reported using the services, most felt their needs and concerns were addressed to their satisfaction. This is an illustration where reliance upon one mode of data gathering may not be adequate to obtain a brighter picture of social phenomena. The ecometric approach is best in this type of community research.

## CAUSES OF THE POWER SHIFT

In this discussion, negotiation is not explicit, i.e., where both parties sit down to negotiate the terms of the agreement regarding each other's power and authority. Negotiation is implied, and sometimes explicated, through either affirmative or negative responses to community expectations from the authorities. To a lesser extent, power is negotiated between community members and modern institutions of social control when the latter are used to respond to matters once thought to be out of the jurisdiction of formalized entities such as the police and court. This idea is further discussed in this section about the causes of the power shift.

Tribal agents of social control have competing demands placed on them that require: (a) they employ traditional methods of responding to deviance in the manner the community desires, and (b) to uphold federal expectations for tribal law enforcement personnel. Two examples of this include; (a) the woman who told her daughter to "*go get the police*" because she saw a Skin Walker; and (b) when the police are called upon to regulate behaviors of tribal members during spiritual ceremonies such as the Sun Dance and the Walk of the Warriors. Conversely, while the community desires traditional responses to deviance such must conform to federal law. An example of this includes a story told to me by several tribal members. They reported that recently, there had been a murder of a female member on the reservation. They further reported that many people within the tribe know who the murderer is because some "*saw him in dreams*" and other culture-specific methods of knowledge creation. Yet, the police cannot respond to this type of evidence because it is not likely to be upheld as a legitimate basis for probable cause to arrest the offender. The police are then forced to design methods of investigation to address both parties' expectations in a manner that is agreeable to each side thus creating a hybrid of power. Several other factors appear to be associated with the creation of a hybrid of authoritative power that now exists within this tribe.

Changes in the paradigms of many members caused by social changes that are the result of advancements in society were reported by the Indians to



be a source of conflict among the younger and older generations. Intergenerational conflict is evidenced through statements made by the people about the differing desires for the tribal authorities. Subjects reported that the *"Elders hang onto old ideas"* and that *"they want to keep it like it was a long time ago ... that's just not possible"* conflict with statements made by others that the younger generation *"don't even know the language"* and that *"we need to prepare the children so, hopefully, the tribe can prosper."*

Television, the internet, and the encroachment of non-Indians into tribal society were cited by many as a source of conflict and pressure to mold a different type of jurisdiction. One man said about his son *"my little one wants what he sees on tv."* The desire to *"have what everybody else has"* combined with the attitude among tribal members that *"we were taught to adapt and to survive"* pressures the members to demand an alternative type of response to deviance. Pressure to change how tertiary power is used is coming from tribal members both individually and as a group. The push is not new as many tribes have been advocating change since Congress and the President have given some powers back to tribes to regulate their internal affairs as a result of decisions by the USSC, such as the sole authority in making the decision on who is a member of their tribe (see, *Santa Clara Pueblo vs. Martinez*, 436 U.S. 49 (1978)).

Community expectations have also been molded by their perceptions of authoritative institutions that may have developed as a result of viewing televised accounts of similarly-situated communities. The *"why can't we have that, too?"* concept psychologically penetrates first the individual tribal members and then the community as a whole. Champagne (1989:8) called this type of impact *"cultural-normative interpenetration"* and occurs when *"members of indigenous societies [become] aware of alternate world views, political organizations, religions, and social mores."*

Technology facilitates acculturation of tribal members into modern society and has contributed substantially to transformation of authoritative power. Modernization via technologically advanced devices such as computers with advanced Internet communication devices such as web cams and e-mail, satellite televisions, cellular phones, and electronic games (all have been found in virtually all member's homes) have made their way into the tribe's reality. Contact with outsiders, specifically the influx of a large number of Euro-Americans who have found the natural surroundings to be desirable locations to build their 'dream homes,' has forced a form of modern day acculturation-by-association-due-to-globalization to occur in this community and an associated shift in power. Finally, the large number of tribal members who have returned from urban areas to live on the reservation have brought with them the norms, values, and beliefs of the dominant society. They then expect such imported perceptions of vested power to be initiated with a culturally-specific overture into tertiary mechanisms of social control situated within the reservation. Evidence of this is found in the perceptions tribal members have about the police being responsible for responding to community problems. *"It's their job!"* and *"they're paid to do it"* attitudes express the community desire to have the type of law enforcement found elsewhere.

Historically, the tribe had its own governmental structure. As society and its perceptions of Indians improve (e.g., *“it’s cool to live with the Indians”*), the tribe is re-empowered to demand a re-negotiation of the authority within its jurisdiction. External demands from state and federal authorities (such as signing the compact with the state of Colorado to release information about the criminal histories of the tribe’s elected officials) coupled with the resurgence of Indian social power as evidenced by the growth of Indian political institutions such as the National Congress of American Indians in non-Indian society pressures changes to the former power structure. Modern Indians now demand modernized power structures. Traditional Indians expect tribal traditions and customs to remain. The fusion of these dual yet competing expectations forced the development of the new tripartite hybrid of authoritative power that exists today within the reservation boundaries.

While not required by federal law, most tribes have governments that have executive, legislative, and judicial branches and associated offices which operate with the same ideology found in the larger American society. The Southern Ute Indian tribe has one such government that also infuses culturally-specific attributes into as many areas as possible, including its laws and institutions of social control. One author has implied the change in the Southern Ute governmental power structure may have been a result of “routine conflict” (Champagne, 1989:3-5). Champagne argues the impact of the “geopolitical environment, world system, and cultural-normative interpenetration” are three separate types of contact that may result from interaction with a super power structure. Champagne further argues that these are also three levels of analyses that should be conducted as a result of such contact but is out of the scope of this text.

Our understanding of the fluidity of power from traditional to legal and then to a hybrid of traditional and legal power can further our knowledge of how power operates in traditional societies which are under dual governance. Champagne (1989:13-14) is on target again when he begins his main arguments with the idea that “the variation in institutional change depends on the conditions of the geopolitical environment, the types of markets available, the degree of interpenetration of Western culture and normative order, the continuity of subsistence economy, the degree and form of social and political solidarity, the configuration of societal differentiation, and the world view and major cultural orientations of the society.” Champagne’s work may be well suited to help us to better understand why power in traditional tribal societies is fluid. The special circumstances and nature of traditional tribal societies may be unique in their transference of power in modalities that are not likely to be mimicked in the larger, more complex American society. One reason for the aforementioned may be the influence women maintain in modern tribal society.

## MULTIPLE ROLES OF WOMEN IN THE CRIMINAL JUSTICE SYSTEM

During this study, I was amazed at many of the women I met. While I met many female victims and perpetrators of violence, I also met several extraordinary women who worked within the Ute criminal justice system in a concerted effort to respond to crime. The Ute culture is a matrilineal warrior

culture. Traditionally, women have played a leading role in the governance and leadership of this tribal group. The Bear Dance, for example, is a celebration of women's leadership and also offers women a socially acceptable means to change partners in relationships. This is the cultural milieu in which modern Ute women find themselves. The women appeared to be fine with the power arrangement and did not indicate to me a willingness to change the status quo. It is unknown how the males felt about this same situation.

The modern roles women play in the current tribal justice system are varied. The chief justice of the tribal court is a woman who built the court on her own and it has national standing among tribal courts, all without the benefit of a college education. The Director of the Department of Justice and Regulatory, the umbrella department for the rest of the criminal justice system is a woman that leads a multi-million dollar agency on her own. A female officer who is often called upon by tribal members to provide non-traditional law enforcement services that are grounded in the cultural and spiritual practices of the tribe is a known figure in the community. There is another woman who, at one time during her youth, provided a culturally unique means of informal social control to the tribe via spiritual activities. The roles of women as members of the tribal council and as social service providers (police agents, social workers, etc.) to delinquent youth are critical to the function of the Ute criminal justice system.

I have argued that the criminal justice system on this reservation is a reflection of the values of the tribal community. The criminal justice system molds itself to conform to the unique needs of the community. By doing so it produces yet another means to reinforce the collective cultural values of the tribal community and its overall identity. I have discussed the tribal criminal justice system in an effort to set the stage for discussing some types of crime and deviance reported to be occurring within the reservation boundaries. The next Chapter discusses not only crime within the community but also examines how the membership and government responds to such using a hybrid of traditional and contemporary methods of social control.



## CHAPTER 5

### CRIME IN THE UTE COMMUNITY

“I TELL YA ‘BOUT LAW AN’ ORDER  
ON THIS RESERVATION!”

We’ve had bad experiences my family members have been framed and they been, for one reason or another, my family’s been picked on. I guess most family’s are like that but the experience I had maybe you read about? There was a recall that went on in 19 almost in 80 - 80 something. They was tryn’ to recall. I voted and my husband voted. They said ours “caused by one vote, we won by one vote.” But the tribal attorney said that no we didn’t count. Why did they pick our vote? They so often stopped me down there. I stopped at the laundry mat to see my adopted son and his wife they were washing. They were coming out and I stopped in to say I was gonna go get them. The next day they said, “Well, stop down there by the Shur Value (grocery store) and we’ll buy you something to drink.” I said “Ok”. So I started out and the police came by. What I had done before I came downtown (to Ignacio), I had stopped at the (inaudible) and I had put them in a court case, and I had my share of that! And the court cases, I had put \$25.00 for a jury trial but they never went to trial so I was askn’ ‘em if I could have that \$25.00 back because I needed it. But then I don’t know what happened, the lady said that I was raising Cain, cussn’ and I guess (laughs). I didn’t do nothn’. I just was in there about three minutes, I guess. They said the judge’s not here so I said OK and I walked out. They sent the police after me. He pulls me over and I says “What happened?” And he says, “Nothing, they told me that you were raising Cain up there at the justice building and calln’ names and hollern’ around. ”Who me? I wasn’t there but three minutes”, I said. I left then. I said, “Well, we need to write you a whatever it was. He had a traffic paper. I said, “You gonna write it on that?” And he said “Yeah” and I said, “What if I refuse to sign it?” and he said, “Well I’ll just take you in.” “You know”, I said, “I would dearly love for you to take me in. But I’m sorry I gotta make a trip tomorrow so I’ll just go ahead and sign it and we’ll see about it.” So, I signed it and he let me

go. When I came back first it was a traffic ticket. On the traffic ticket it went to court and they said they kept changn' it from disturbing and all that ... then they changed it to contempt of court and that went on ... I tell you they were really don', tryin' to get me for some reason or another. I said "OK", my brother went to help me so I asked for a jury trial. As soon as I seen those ladies on the jury trial I said "It ain't gonna go right." Sure 'nough, one person just hanged out but they forced her 'til ten o'clock at night. The jury was still talkn' back there so the judge says, "Well, make up your mind. We're gonna have to go home. It's ten o'clock now." So the rest of the people were gettn' mad at her because they wanted to go home and she was tryn' to hold out but I guess she finally agreed. So they gave me ten days in jail or ten days of community service and \$300.00 fine. I had another friend with me. She said "How many days do I have to make an appeal?" "Ten days, OK, fifteen days alright." So the next day she signed the court appeal and we went through Albuquerque. We got a lawyer, it cost me money I tell you ... because they were tryn' to get me ... they had that one, too. They had the recall thing goin' on, too. During that time I took care of this old man. He was my husband's uncle. I got sick and he got sick. I had cancer, colon cancer, and he was gettn' (worse) and I couldn't care for him. So, I talked to my son and my brother and my husband. I tell you, he has allotment land, and way back there it had a gas well on it. To put gas/oil on it, this one here wanted to buy it from him. He didn't want to sell so they figured they'd get it from him some way so they sent him to prison for ten years. They framed him up and said he had raped this girl and all that kind of stuff. He was working as a police officer too at that time so they went to prison. So then he made power of attorney for me and my son and we had that sold. They were tryn' to put everything from that on me. He won't come home to me. They're tryn' that after so many times. And they wouldn't pay out. I had to fight the BIA. I had fought the tribal council. BIA said they won't do it and tribal council said, "We got nothin' to do with allotments." Now, what do they do? They make it their business. Now allotted land is their business. Now they get the service techs on it. Everything else you have to go through them and everything. When back there they said they had nothing to do with it. So we wrote letters. My brother wrote letters. That's how we got to know Danny Inouya (Senator Danial Inouya, Senior United States Senator from Colorado). We got him involved in all that; to the solicitor, the Area (BIA) office. We just wrote letters everywhere about what was going on. Finally, I remembered my friend in Congress up there he used to be FBI. I wrote to him and he wrote back and he said, "Alright, I will help you but I will start from here. Here's where the gas and oil company has a big office. He said he would start up there. I should have had him

investigate. He sent the same copy to the tribe to the BIA, to the Area office the same letter he sent to me; that he was gonna start investigating. What did they do? They made it their business. They got the attorneys for the AMMCO. Gotta meet on that day. I put it in the newspapers I was that mad, OH, tell them gas and oil company dismantle this gas rig over here but you got to pay me for the damages you know. I gave them a month. At the first of something, I said, "If you don't have it out by then I'm gonna blow this damn thing!" (laughs) It was in the newspapers. They was mad! Then I transferred this guy here and they got another old Elder man up from Area office to take care of it. He called me one day, he said, "I'm gonna show you something. You open that ledger book that they keep for gas and oil and allotment owners and gas and oil people that has their ... has gas and oil on their land." Someone wrote under my husband's name, "NOT PRODUCING BECAUSE HE'S IN PRISON." I should have had a copy made from that, I should have, I told him. He told me, "I'm gonna help you" he said, "look at that!" "I just wanted you to see that. I knew I might lose my job or get booted out of BIA but I'm gonna help you", he said. And he did, you know, he helped me and he did lose his job. (laughs) In the meantime, this recall thing's gon' to court. Then his daughter, my husband's daughter and his cousins or someone... You see, I put that old man in a rest home because I couldn't take care of him, I was sick too you know. So I called down there to IHS and they called social services. In just that little while they had him located. I put his clothes together and one lady came and they took him. They took him to Cortez and from there this old man is gone. His social service record; him and I used to fight over my grand children. They tried to take my grandchildren away from me too. I was fighting for them. I had all these things going, fighting for the gas and oil then they gonna charge me for embezzlin'. Said that I had stole his money. I said, "All he ever got was his social security (SSI) and that wasn't even enough to help pay for him...take care of him." In that meantime, all of this is coming together so with my friend we went to Albuquerque. She had a friend that she knew from a long time ago. She agreed. My husband said, "It's your reputation." So I went to fight the court down here. Took me \$20,000 it cost me! I paid \$100.00 a month but I had \$2,000.00 I paid her down as a retainer. I used to pay \$100.00 a month. It took her from that March to December but she made them work for their money too. She got it dismissed, everything together and dismissed. She said, "I could tear up this Kangaroo Court", she told me. That's the trouble I had. So when you said, "Police department, I had all that, on top of that, it came out on Paul Harvey's news." I still have the clippings from back East. The election board had called me and said I had "witched the election board." Then they started calling and said I had

“witched” them. Yeah, so then I became a “witch” them. On top of everything else! I have a friend, a Korean woman in Albuquerque. She said, “Let’s go to Korea somebody’s gonna have a conference out there.” So she took a bunch of us there. On our way home they were passing this Korean newspaper around and it said they knew all about it; what went on with me (back on the reservation). We told them we can’t read Korean so we didn’t. But one of the men did, he said, “You’re not a local witch anymore. You’re international witch!” I looked at it right here and it said, front page, “Doing healing work.” They was askin’ the attendant to give us some papers. I still have mine too. (laughs) By that time it was October. In December it was all dismissed but at the end of the year, end of December, my husband was being released from prison after four years, He didn’t serve that ten years. He got out. I didn’t get arrested. They told me they would arrest me if I didn’t sign that paper. [How long ago was that?] “I think it was in ’89, yeah ’89.” So they really don’t like me because I was the first one that ever beat them and a lot of these people that they get charged for ... unlawfully charged; they do that around here to tribal members. If only for spite. The lawyer group, well, they wrote me a letter two, three years later and they said, “You been payn’ faithfully, tell you what, for the rest of what you owe us, send us \$2,000.00 and we’ll call it paid off.” [So, did you?] I did. So they worked for me to the rest of the money I owed them was maybe \$10,000.00. They sent me all the court papers. Someday I might need it. See, that’s my experience with law and order around here. It was terrible, they wouldn’t give my son or brother a job, we were on the Black List. When we’d get a little money we would share it with each other. When we finally got the back pay for all the oil money, I divided it up between my son and their brothers and myself. They all paid their’s up because they worked hard for it. That’s how we got to know Danny Inoouy because he supported us way back. They didn’t know I was gonna fight back. Cause a lot of people just take it. They don’t know how to fight back even if they’re innocent and they get blamed for something. ‘Cause I’ve had it done on my grandson, my son and my children. I got lawyers for them to fight for their rights you know. Most of them will go like sheep to the chopping block or something. And it’s gotten worse now because nobody wants to fight ‘em.” [How come nobody wants to fight ‘em?] People been complaining, complaining to the Council but nobody ... nobody knows what’s going on. They had a hanging in there and a shooting of that woman and then that young man. He didn’t hang himself. They hanged him, I know. I have a way of knowing things you know. You know kind of like some of us elders who are like traditional in our way of knowing, almost like psychic. You can see you know,



but you can't prove it. You can know but you have to have facts. That's my experience with law and order.

\* \* \*

## INTRODUCTION

Not unlike other similarly situated communities crime does occur on this reservation. This Chapter discusses the most prominent types of crime I found. I begin this Chapter with the statement that the types and level of severity of crime found here is about the same and at about the same level as those found in any other similarly situated community; whether it is a tribal or non-Indian community. Indeed, I would argue that the types and severity of crime on the reservation is somewhat less severe and less prevalent than the current rhetoric about crime occurring on Indian reservations (Perry, 2004).

## MODERN DATA ON NATIVE AMERICAN INDIAN

### CRIME AND SOCIAL DEVIANCE

Most data on crime and social deviance occurring among Indian groups should be viewed with much caution. Crime data collected on gangs, substance abuse, and domestic violence occurring in Indian County, for example, is often fraught with issues of reliability and validity (personal communication with USDOJ/NIJ research staff on 04/26/2007). Thus, reliance upon these reports should be done with caution. So, too, with most data on crime and violence among Indians who live both on and off of any Indian reservation. The National Crime Victimization Survey (NCVS) is often cited as a source of inadequate or under-reporting of victimization of Indians (ICPSR, 2006). The data collection methodology used during the NCVS is such that it facilitates under-reporting of victimization (Abril, 2007; ICPSR, 2006). There has been little empirical work to address the issues just cited.

In Abril's (2005) study of the relevance of culture, ethnic identity and collective efficacy, it was found that poor, young, female Indians who reported low levels of individual collective efficacy are more likely than others to experience violent victimization. This study is important to consider because the methodology employed was as strictly scientific as possible while conforming to the unique cultural demands of the targeted community. Other work conducted on crime in Indian country included a recitation of the work on elder abuse.

The crime data that are available for the reservation are, in a way, misleading. The Chief of Police and his staff reported that a great number of police calls for service are alcohol-involved incidents of domestic violence, but the official arrest summary for 1999 does not list these types of offenses. Likewise, "gang-like" activity was mentioned often by all criminal justice staff members, but is not listed in the official arrest summary for 1999.

Finally, it was reported by the Chief of Police that drug trafficking onto the reservation is becoming a significant problem for the police department but is not included in the reservation's crime statistics. Within the previous year, a single search warrant was served and a large amount of narcotics (powder cocaine) were seized (personal interview with the Chief of Police, 2001). It is believed by tribal law enforcement officials that drug traffickers are targeting the reservation as a distribution point because of the perceived lax enforcement capabilities. For example, the Chief Wildlife Enforcement Officer reported that he had recently installed a fence around his property in response to escalating drug activity on the property adjacent to his own. This officer reported that those responsible for the drug activity are not Ute tribal members nor does he believe they are Native American Indian. These perceptions of criminal activities are likely influencing tribal members' perception of crime and community safety. Table 4 lists the types and number of arrests for the year 1999; the year preceding the study.

Table 4.  
Southern Ute Tribal Police Department  
Arrest Summary for 1999

Offenses	Arrests
Substance Abuse Offenses	102
Violent Offenses	107
Property Offenses	13
Other Criminal Offenses	98
Traffic Offenses	292
Wildlife Offenses	2

Data provided by the Southern Ute Police Department on 11/26/00. Data have been collapsed due to different definitions of the same behavior.

## VIEWS OF CRIME SERIOUSNESS

It would be difficult to contextualize the impact of crime in the community without first discussing how community members perceive crime, in particular common crimes such as robbery, domestic violence, and drunk driving. During the survey, I asked all participants how they felt about many common crimes. In the table below, you can see that there are significant differences between the Indians and the non-Indians. Overall, the Indians reported that they view these common street crimes more seriously than did the non-Indians. What this means is that because the Indians perceive crime as serious, engaging in these behaviors often leads to community demands placed on the tribal police to respond swiftly to these offenses. Also, community expectations for the tribal court are such that it must punish the offenders according to how serious the crime is perceived to be.

Much work has been reported on perceptions of crime seriousness, almost to the point that it may no longer be in criminological vogue. The research that has been done in the United States has focused on the views of

elites (McCleary, 1981; Roth, 1978), Blacks (Herzog, 2003), and Hispanics (Warr, 1980). Some research results have been published on the views of crime seriousness among Asians (Jang, 2002) and those residing outside of the United States (Smith, 1997; Heyman, 2000). No work, however, was found that examined the views of crime seriousness among Indians especially work comparing the views of Indians with those of non-Indians living within the same rural Indian reservation community. Table 5 lists the perceptions of crime seriousness held by both the Indians and non-Indians.

Table 5.

Mean Scores for Crime Seriousness Between Indians and Non-Indians (SD)

Variable	Indian ( n = 312 )	Non-Indian ( n = 355 )	Sig.
Murder	4.61 (1.117)	4.63 (1.100)	.000
Robbery	4.48 (1.200)	4.55 (1.081)	.000
Rape (Forced Sexual Intercourse)	4.53 (1.142)	4.64 (1.017)	.000
Beating Someone Up	4.22 (.959)	4.27 (.831)	.000
Push, Grab, or Shove Someone	3.53 (1.178)	3.40 (1.103)	.000
Man Beating His Wife/Girlfriend	4.56 (.846)	4.63 (.687)	.000
Woman Beating Her Husband/Boyfriend	4.32 (1.069)	4.41 (.954)	.000
Stealing Someone's Vehicle	4.23 (1.061)	4.16 (.954)	.000
Grand Theft (e.g. Farming Equipment or Livestock)	4.19 (1.147)	4.16 (1.077)	.000
Petty Theft (e.g. Shoplifting)	3.52 (1.176)	3.65 (.984)	.000
Stealing Someone's Work Tools	3.86 (1.118)	4.05 (1.006)	.000
Business Cheating Consumers	4.10 (1.171)	3.98 (1.122)	.000
Vandalism (e.g. Damaging Private Property)	4.16 (.993)	4.08 (.944)	.000
People Drinking Alcohol in Public	3.42 (1.315)	3.17 (1.347)	.000
Drunk Driving (Driving a Car When Drunk)	4.67 (.855)	4.77 (.556)	.000
Driving a Car After Having a Few Alcoholic Beverages	4.21 (1.041)	4.19 (1.041)	.000

Abril, Julie C. (2007). Perceptions of crime seriousness, cultural values, and collective efficacy among Native American Indians and non-Indians who live within the same reservation community, Applied Psychology in Criminal Justice, 3(2), 172-196.

## COMMUNITY LEVEL DEVIANT BEHAVIORS

Indians were dismayed by certain aspects of community deviance. Tribal youth behavior in the community, in particular disrespect of the tribal elders, was seen by all interview subjects as a very serious violation of an Indian cultural value. When asked how disrespect of a tribal elder affects their tribe, some subjects reported the following: *"I think it affects our community greatly...respect... (it) plays an important part of our tradition because our elders are our tradition. They are our number one resource;" "It makes our community look real bad because you have others coming in and saying that we don't have any manners of any sort. That's sad;" "It tarnishes the community,"* and, *"Within the tribal community, it makes people angry."* The survey data reinforce these perceptions. Overall, most people (79.4%) felt that Indians who do not respect tribal elders are committing a serious violation of an Indian cultural value.

### Public Consumption of Alcohol

Other forms of community level deviance are related to substance abuse. A type of community level deviance is the public consumption of alcohol. Many interviewees reported that this is a problem in their neighborhood. One man reported, *"I have a neighbor on one side and they're constantly drinking and it goes on at like 2 or 3 o'clock in the morning, music blaring and people are out there at night. When my husband and I are gone on the weekends, we come back and there are beer bottles and cans laying all over our yard. So we end up having to pick up their stuff."* Other people reported, *"Too many people party around here and they make noise in the middle of the night. Cops always coming around, someone's always messing around by your vehicle."* And, *"There's a lot of alcohol and drug abuse that goes on here. That's probably the two things that tie in together. Then you have your people getting into trouble a lot."* [Question: What kinds of trouble?] *"Drinking. They get into fights and they're mostly repeats."*

Information from the survey supports that which was collected during the interviews as it was found that less than half of the respondents in this study reported that people drinking alcohol in public is a very serious crime. There were minor differences between the Indians and non-Indians: a majority of Indians (52.3%) thought people drinking alcohol in public was at least serious, whereas a minority (45.4%) of the non-Indians felt this way. These differences were minor but still significant (Abril, 2004).

### Driving a Car After a Few Drinks

Most (80.2%) respondents felt that driving a car after having a few alcoholic drinks is a very serious crime. Indians and non-Indians agreed on this matter (79.4% of the Indians thought so and 81% of the non-Indians (Abril, 2004). No interview data were gathered regarding this behavior. The potential harms likely to result from community level deviant behaviors may mitigate or exacerbate the responses to such by both groups.

Differences in values between Indians and non-Indians are apparent. In predominantly non-Indian communities this may not be as significant as it

would likely be elsewhere. In a predominantly Indian community the value structure may be disrupted by the infringing non-Indian paradigm. This may have deleterious tertiary effects on the governmental entities and informal social control mechanisms that are designated to respond to community level social deviance and crime occurring within the Indian reservation. Sellin (1938) wrote that the values and behaviors of a minority cultural group will be perceived as deviant (and possibly criminal) by members of the majority group. How the Indians in this study respond to deviance among their members, if the response does not conform to the larger surrounding non-Indian community's expectations, may be seen as deviant and thus further contribute to problems between the Indians and non-Indians. There is evidence that shows that the non-Indian residents of the Durango community located next to the Southern Ute Indian reservation are often disturbed by the responses to community level deviance such as public intoxication by their Indian neighbors (personal communication, 2002). Tensions that have developed as a result of the difference between these neighbors have, at times, led to stereotyping and other negative social and community consequences, as Sellin (1938) suggested might occur.

The Indian and non-Indian groups who live together in this same rural reservation community have different levels of collective efficacy, i.e. social cohesion and informal social control, different perceptions of crime seriousness and violations of Indian cultural values; and differing levels of social organization and participation in community improvement efforts. This finding helps us to understand why these two groups may respond differently to community level social deviance. Collective efficacy within some sub-cultural groups may not be the only variable by which to determine a community's response to crime.

## INDIVIDUAL LEVEL CRIME AND DEVIANCE

### Reporting Violent Victimization Among Minorities

Early research on factors associated with reporting violent victimization focused on mainstream majority victims. Current research is focused on minority group members (Wyatt, Axelrod, Chin, Carmona & Loeb, 2000; Lee, Thompson-Sanders & Mechanic, 2002). Government reports indicate a higher rate of reporting violent victimization from Indians than from non-Indians (Greenfeld & Smith, 1999; Perry, 2004). These reports, however, are fraught with methodological problems (ICPSR, 2006). Other research on the predictors of violent victimization among Indians appears in the psychological and medical literatures (Yuan, Koss, Polacca & Goldman, 2006). Research on victimization among Indians is scarce in the sociological and criminological literatures. Abril (2007), however, reported that those who identified more as Indians were 3.188 times more likely to report violent victimization than non-Indians living within the same tribal community. To illustrate some of the reported victimization, of the 85 Indian interview subjects, a majority ( $n = 47$  or 55.2%) reported being a victim of violence within the previous five years.

Individual levels of collective efficacy were significantly associated with reporting violent victimization. That is, those who scored higher on the individual level collective efficacy scale were more likely to report violent victimization than those who scored lower. Involved and cohesive community members reported more incidents of violent victimization. This might be a result of the collective conscience and personal beliefs that authorities should be advised of community violence in an effort to respond effectively to such. Indeed, Abril (2004) found both Indians and non-Indians overwhelmingly believed that the police were responsible for solving community problems. This includes community level victimization.

Additionally, with the research site being an Indian reservation and the researcher working on behalf of the tribe, Indian subjects may have felt more at ease with reporting their previous victimization. The perceived safety of the victim(s) (Bachman, 1998); options for leaving the location of victimization such that play into a victim's decision to move and financial considerations (Dugan, 1999); and the perception that one's report to the police or researcher would actually result in a positive outcome for the victim (Bachman, 1998) are only a few of the variables that may also influence a decision to report violent victimization. This study also found that poor, young, Indians were more likely than others to report violent victimization. This may be because they experience more violent victimization. Past empirical studies have shown that poor, young, minorities experience more violent victimization because they tend to associate with other young people who may be violent and who may also live in the more disadvantaged communities (Vigil, 2002). These findings suggest collective efficacy may be an important variable to consider when comparing reports of violent victimization between groups. It would be inadvisable to make broad statements about differences in rates of reports of violent victimization between different social groups without consideration of the effect of collective efficacy. Future victimization studies should include individual level measures of collective efficacy and community values in order to develop better policy responses to victimization.

## VIOLENT VICTIMIZATION

### Statistics

In Abril's (2007) study of Indian identity and reporting violent victimization differences between the Indians and the non-Indians on all relevant variables were significant. Indians were younger, had lower incomes and reported higher numbers of incidents of violent victimizations than did the non-Indians. There were significant differences between the Indians and the non-Indians on the Indian cultural values scale. The Indians reported higher scores (indicating a stronger cultural identity) and appeared to be more unified in their overall cultural values, than non-Indians. Table 6 presents the mean scores on the Indian cultural values scale for Indians and non-Indians.

In a binary logistic regression analysis, significant differences were found between the Indians and non-Indians on violent victimization when controlling for ethnicity. Indians were more than three times as likely to report violent victimization as were non-Indians. While there were less significant

differences between the groups when controlling for culture, Indians were still 1.161 times more likely to report violent victimization than were non-Indians. While statistical significance was lacking in the cultural regression analysis, those Indian subjects reporting higher scores on the Indian cultural values scale reported more violent victimization. This may be because community perceptions of the seriousness of street and cultural crime and the view that police should respond to neighborhood problems is thought to be associated with reporting crime.

Table 6.  
Indian Cultural Values (Mean Scores)

	Indian	Non-Indian	Sig.
Cultural Values	41.18 (SD 8.714)	34.31 (SD 9.628)	.000

Abril, Julie C. (2007). Native American Indian identity and violent victimization. *International Perspectives in Victimology*, 3(1), 22-28.

Table 7.  
Ethnicity and Culture on Violent Victimization within the  
Previous 12 Months

Variable	B	S.E.	Wald	df	Sig.	Exp(B)
Ethnicity	1.160	.231	25.279	1	.000	3.188
Culture	.150	.086	3.029	1	.082	1.161
Constant	-3.030	.505	35.939	1	.000	.048

Abril, Julie C. (2007). Native American Indian identity and violent victimization. *International Perspectives in Victimology*, 3(1), 22-28.

### **Question: Have You Ever Had Any Experiences With Physical Fights With Someone Close To You?**

Yeah, in my first marriage I did.” (She was 16 and he was 19 when they were married.) “Like I said when he came back from that World War Two, he was very, he was a good man when he was sober. He was the kindest man you ever knew like that. But as soon as he had a drink in him he was ... he’d wanna fight and he’d come home ... that’s when before we had cars and way back there you know, cars or anything, we had horses and wagons and stuff ... my oldest boy was maybe about that size (shows with hands) ... the oldest boy, all the kids learned not to cry because when we heard him coming and he’s hollerin’ and whooping on the horse we got out and we ran out for our lives you know...we hid in the willows you know where sometimes he’d come right by us and he’d be carrying a gun too you know...and a baby, they learned not to



wimper...all you'd have to tell him was "Daddy" you know like that and he'd keep quiet...he didn't even cry you know...he'd sit real still too...that's what we went through. It went on and on and then I had my sister in law stay with me too and one time he'd come and if we thought he wouldn't do anything, he'd through the covers off and he'd want to fight...so one day she said, "Sister, this is what we'll do." She said, "We're gonna pretend we're asleep and when he comes ... when he comes we're all gonna jump on him ... they got skilletts in their beds and they didn't take their clothes off, they slept with their shoes and their clothes on but the covers on. But here he comes again and pulls the covers off of me and start hollern' and we all got up and said Brother, you don't do that anymore ... they started hitting him with all that whatever they had in their hands ... he said. He wouldn't come home anymore like that, but you never know when he was gonna come home. Sometimes he's gone weeks, two weeks...you know and it got to be where we laid like separately, like separate in the same home, but he had his own room then. I'd cook, he came home and didn't bother anymore, he just went to his room and fixed breakfast and leave it there and I'd go to work. I was workn' too you know...

\* \* \*

The worst was about probably about 4 years ago. It was with my girlfriend. She was actually boozing up and I'd go home and she'd stop drinking and I used to drink too but she was trying to stop. Every time I'd go home she'd call the cops. And get me kicked out or get me taken to jail for the night. And then get out. Then one night I went home and all her friends were there, girlfriends and all that. I was wondering why they were there because we all went to the bar together and her and ... she told me to go home because I was pretty intoxicated. First thing she told her friends was to call the cops. I went and hit her with my hand like this (backhand) in the mouth. Now, I said, you got a reason to call the cops. I get tired you call the cops on my every night of the week. Come home while I go to sleep and she got scared because of her first marriage. Her ex-husband used to beat her up and do things to her. That's what she used to tell me. I don't know if it was an excuse used for me not to drink or what ... to me I'm like, I'm not him. I'm somebody else and it kind of like just built up inside me when she called the cops. I ended up doing a whole year in probation and domestic violence counseling. Yeah, it helped me a lot. Anger management; so I could understand about my anger, not to vent it out on other people." [When you hit her, did you call her any names?] "You know, I don't think I did, I just hit her and that was it." [Did she say anything to you?] "I don't remember because I got attacked by her friends.

They all jumped me.” [Were you injured?] Just to my hand by her tooth when I hit her. It got infected. I cracked her tooth.” [How many other women were in there that started to attack you?] “I seen four, they were all pretty big (laughs).” “I felt sore the next day, that was about it.” [Did you get medical attention for your injury?] “Oh, no. Oh, just, ‘cause I was in jail over here for an assault and battery. When it got infected, they could see ... cleaned it.” [Did you ever receive psychological counseling as a result of this event?] “Yeah. We’ll I been through that way before since I been a teenager, since I was about fourteen. I used to be with a social worker. I was here before ... I was with my grandmother and I had no guidance in my life.” [Why were they going to send you to a Boy’s Home?] “I was always just being wild. Just not going to school. Wouldn’t listen to anybody. Like I said, I didn’t have no guidance, just my grandmother was there and that was it, you know. I didn’t know what to do with my life, I was lost. Plus, I didn’t have no parents.

\* \* \*

With my first husband I did. He’d come home from drinking with his friends and I was home. I just barely had my daughter. She was probably about three months old. I knew how he’d act. There was just something about that night. I had left my clothes on but I put my nightgown on top. I was laying in my bed with my girl and he came home and demanded that I get up and cook for him. I told him I was tired because I had worked. And he just kept it up and kept it up and I got up and he saw my clothes on under my nightgown. I told him I was scared of him. He chased me around the car and I left me girl there. He said, are you afraid I’m gonna do this to you? And he just beat the crap out of me. I have a scar here. I had like 30 some stitches and they had to take me to the emergency room. I kept telling them that my baby’s back home. They got a hold of my mom. My mom went and got her. He beat me up so bad. It happened about 29 years ago. He called me a bitch and a whore. I tried to fight back and I took off running and he just over powered me. He just got the best of me. I tried to cover the best I could my face but he was wearing steel-toed boots and every time he kicked me, I could feel it. That’s what made the injuries worse. I was going to a women’s group for a while. It helped me realize that women shouldn’t go through stuff like that. It’s just something that I wouldn’t want to have happen to someone. I’ve been without a spouse for so long. My ex-never tried to abuse me. (laughs). I told him if he ever laid a hand on me I’d have him kicked off the reservation because he wasn’t from here. He never ... he was respectful. I signed a complaint against my first husband but they couldn’t find him. My mother said, you’re not gonna mess with that man

anymore. He eluded the police for about 6 months. We went to court and they let him go. He was in jail for a couple days. When he was released, he threatened to beat the shit out of me again because I reported him. Our relationship was ruined. I didn't have a phone in my home then. I ran up the road after he beat me up, I laid there on the sidewalk for a little while and I walked up over to peaceful Spirits and they called the police. They didn't have crime victims services back then. He still lives on the reservation. We're divorced." [Do you think there are Bad Spirits involved in domestic violence?] I don't think so. I think the person just does it. They can say they were influenced by this stuff but I don't.

\* \* \*

Table 8.  
Descriptive Statistics of Reported Violent Victimization

	Indian (%)	Non- Indian (%)	SD	Sig.
Years In Current Home	8	8	--	--
Reports of Violent Victimization†	88 (71.5)	35 (28.5)	.388	.000
Violent Person Was Living With Victim	43 (72.9)	16 (27.1)	.284	.000
Violent Person Was Intoxicated	62 (78.5)	17 (21.5)	.323	.000
Victim Reported Injuries	40 (80.0)	10 (20.0)	.264	.000
Victimization Reported to the Police	48 (75.0)	16 (25.0)	.295	.000

†Does not include reports of "threats with a knife, gun, or other weapon"

Abril, Julie C. (2007). Native American Indian identity and violent victimization. *International Perspectives in Victimology*, 3(1), 22-28.

### Interpersonal Violence

The interview examined the role of ethnicity and cultural values in violent victimization risk. Many parents reported their children are often "*picked on*" and "*bullied*" in school because they are Indian (Abril, 2007). One parent reported her son is often the target of bullying because he chooses to wear his hair long in keeping with Indian cultural tradition in which wearing long hair has spiritual significance. This mother reported that her son was recently "*beat up*" because of his traditional Indian lifestyle. Another mother reported that the "*WHITE teachers in the schools pick on him*" and "*accuse him of starting fights.*"

Other parents reported tribal members are most responsible for violent victimization. One woman reported that she keeps her children away from other tribal members because of constant harassment; "*tribal members...they're the meanest ones of them all*" she said. While many other people reported, with apparent pride, that they are actively involved in both

cultural and spiritual ceremonies; some reported that they are outcast and harassed by some tribal members who do not participate in the tribal ceremonies. It was also reported that those Indians in the community who do not engage in substance abuse, termed by many as “*drinkn’ and drugn,*” are often singled out for harassment and violence (Abril, 2007). A man cried as he was telling me that his wife beats him because he does not drink. One young woman reported that “*if more people were involved in activities such as the Ms. Southern Ute, there would be less crime and violence on the reservation.*” Another man told me that the tribe “*should adopt the same alcohol ban that the Ute Mountain (Ute) tribe has adopted (no alcohol on the reservation).*”

Negative stereotypes of Indians have had a devastating effect on the self-images of many Native people (Holmes & Antell, 2001; Guichard & Connolly, 1977). It may be reasonable to assume that some Indians have internalized these stereotypes, thus becoming what others perceive them to be. As mentioned above, labeling theory supports this concept. When others perceive deviations from the stereotypic norm it might invoke informal social control mechanisms by Indians who have internalized these stereotypes. Interpreting Erving Goffman’s (1959) text *The Presentation of Self in Everyday Life*, Barnhart suggests “the individual develops an identity or persona as a function of interaction with others through an exchange of information that allows for more specific definitions of identity and behavior” (Barnhart, 2006). Internalization of deleterious social constructions of Indian-ness may be partly responsible for some Indian people feeling they must reinforce these adverse images in others around them through the use of violence. Further research needs to be done to understand which culturally-appropriate prophylactic measures can be implemented to counteract what appears to be a relic of strongly held societal biases against Indians.

While tribal leadership is often overwhelmed with matters of survival such as sovereignty and other salient issues, tribal leaders should be supported by federal agencies in their efforts to counteract what may be the result of archaic assimilationist policies and practices to “civilize” (Stremlau, 2005) “the savage” (Blackmar, 1892) and “wild Indian” (Stremlau, 2005), and to solve the “Indian problem” (Cornell, 1988). These early policies may likely have facilitated some in the non-Indian population to perceive Indians just as the stereotypes would suggest them to be and to transmit these negative images back to Indians. While many might consider these negative images of Indians to be a relic of an unfavorable historic reality, there is evidence to suggest members of minority groups may still view themselves according to long-held stereotypes. Consult Kenneth and Mamie Clark’s (Ogletree, 2004; Brown et al. vs. Board of Education of Topeka et al., 347 U.S. 483 (November, 22, 1954) empirical study of the self-images of black children that formed the basis of the 1954 United States Supreme Court decision in *Brown vs. Board of Education* about which Professor Kenneth Clark of the City College of New York testified: “... these (black) children ... like other human beings...are subjected to an obviously inferior status in society in which they live, (the children) have been harmed in the development of their personalities ... that the signs of instability in their personalities are clear ... it is the kind of

injury that would be as enduring or lasting as the situation endured, changing only in its form and the way it manifests itself. (p. 1562 )”

In a recent yet unscientific, small-scale replication of the Clark and Clark study, young African American girls’ self-images revealed that children still hold negative self-perceptions which may also be based on societal stereotypes of the “goodness” of whiteness and the “badness” of blackness (Davis, 2005). There is evidence suggesting self-perceptions, whether positive or negative, may influence one’s behavior (Holmes & Antell, 2001; Ungar, 1980; also see Goffman, 1963). In this study of the relationship between a Native American Indian identity and cultural values to reports of violent victimization, it may be concluded that long-held societal stereotypes about Indians may be more significant than once proposed in the etiology of violence and reporting of such among this cultural group.

This study found that people who reported an Indian ethnic identity were more likely than non-Indians to report they had been violently victimized within the previous 12 months. Moreover, maintaining strong Indian cultural values and participating in both the cultural and spiritual ceremonies of one’s tribal group, are likely key variables in predicting reports of violent victimization among Indians. Simply, the more Indian one is, the more likely it is that one will report violent victimization. Abril (2007) reported, “The Indian identity-violent victimization reporting relationship may also be the result of a process of acculturation in to non-Indian society. It is perceived by the subjects in this study that those holding traditional values and engaging in attenuate behaviors are targeted or at least perceived as “outsiders” or non-conformists vis-à-vis the stereotypes of what an Indian “should be.” Informal social control mechanisms force outsiders (non-conformers) to behave according to expected social norms. In some sub-cultural groups (e.g., economically disadvantaged, socially ill-equipped, marginalized sub-populations), violence is often viewed as an acceptable means to bring about behavioral conformity (Wolfgang and Ferracuti, 1967; Anderson, 1999).

## SCHOOL VIOLENCE

### **Question: Have Your Children Ever Been Involved In Any School Violence?**

My youngest daughter she gets into fights in school with non-Indian boys because this young non-Indian boy was spitting on her cousin and he tried to do the same thing to my daughter and ... I’ve always told her, don’t let anybody do those kinds of things to you. She didn’t let him and she beat him up.

\* \* \*

Yes. [Describe an example of a common event.] Ok. Every time, well, my older son they would play soccer and there’s some boys who are in his class and they accidentally trip ... not accidentally but deliberately shove him down or trip him while they’re playing so they’re always trying to push him around or

something. [Is there any reason?] Yeah, it's because of the families here. It's because we got into it one of the little boys' parents when they were drinking and they were making so much noise and now they have a grudge against us because we don't drink. And that's the reason why and my son he's gone ... he didn't take it to heart until a while and he finally his rage just came out and he had beat up one of the boys.' [What happened to your son?] "He almost got suspended but we went up there and told them because that we had already went up to the school and told them it was a problem before and my son wasn't gonna get blamed because it was them that was doin' that to him first.

\* \* \*

The older kids. When I lived in Arizona, they used to always single him out because he was Native American. There was a lot of Mexicans and a lot of WHITE PEOPLE. There was a lot of them that used to pick on him and challenge him all the time. [I'm Yaqui.] I met a Yaqui Indian before from down there, Tucson. I can't remember what his name we were in jail there (laughs). It changed my ways.

\* \* \*

Bullying. Commonly happens every day is um, the most terrible people or ethnic group that have it against is the Southern Ute themselves against other Southern Utes. They'll say, "You're not Indian!" My grandpa said that ... my grandma said that ... you're not a tribal member, you're not a Southern Ute. [Why do they say that to you?] I don't know. He doesn't look quote unquote, Indian.

\* \* \*

Yeah, my oldest boy. He keeps gettn' in with two Mexicans. They were both about the same. One was throwing a rock and hitting the teacher in the head. He never told me why. You know how kids are, "I don't know why I did it." [What'd you do when you heard about that?] Um, I usually just give him time out, put his nose against the wall. That's about it.

\* \* \*

That would be my daughter. She's only 11. She's been picked on. Well, like before she got out of school she was being pushed around. My daughter's the type that won't jump and there was this girl that was in seventh grade and she kept pushing my daughter. My daughter didn't ... it's just that my

daughter's only 60 pounds and the she don't carry, she's easy to pick on. She's small.

\* \* \*

Yeah, my oldest. An older girl was calling her names and stuff like that.

\* \* \*

One day my niece told me about a cousin of hers went and scratched her for no reason.

\* \* \*

I'd get after them. I've done it before and I've gotten to fights with a lot of kids' parents for doing that." [Can you tell me about an example of one time?] Yeah. We went to a pow wow down here. We have pow wows down here at the Head Start and there was some little kids sliding down those rails and there was an old lady, she was my grandma, she was walking up the rail, she was walking, trying to hold on. And that little kid kept sliding and he wouldn't quit. He was about 8 or 9, maybe older. And they were running up and down just running by here real fast and she was trying to walk by. And I got after him and he went in and told his mom. She came out and she was arguing. She was literally trying to fight me over it. And I got mad. I told her, "Well, you should teach you kids and tell your kids not to be doing that especially when there's old people walking or standing here ... what if they run into them and knock them down?" She got mad and told me, "Well, where's your kid at? Where's your child at?" I said, "If you open that door and look, you see she sittn' right by that drum where she's supposed to be." She knows better. Then she didn't say nothing. She just walked away. [Does that kind of thing happen a lot?] It happened that day. It made me mad.

\* \* \*

Well, right now he's attending school in New Mexico. He's the one that's always causing trouble. I tell the school, from his Indian side, there's a long history there but the school wants to do it their own WHITE PEOPLE' way. There's an Indian way why he's there. He's growing into a bad world. He sees movies and writes what he sees.

\* \* \*

Because most of the interviewees were somewhat older and their children were no longer in elementary school, many reported that they no longer had this problem. One woman told me that because her children had

been born in the sixties and there was not much violence back then “*not like it is today*” she does not have this issue. She also reported that she does not even see this problem unless it is happening inside the school. The interviewees who did have elementary aged children very often reported that their children get bullied, while a few reported that their child was a bully. The majority of responses indicated that parents advise their children to either tell a teacher, principal, or other adult and to not to get into a fight with a bully. I heard of only one report of school violence from a man who told me about a fight he was in “*way back in high school*” and that “*it was over a girl.*” Thus most school violence that was happening at the time of the study involved elementary (K-6 grade) aged children. While peaceful environments are the ideal, I understood that the kind of school violence that occurs in this tribal community is pretty low level and common for this age range. Below are some statements from interviewees about this matter.

**Question: How Do You Tell Your Children To Defend Themselves?**

We do tell the to stand up for themselves, don’t get bullied around. If it gets out of hand, tell and adult or us, maybe we can help them.

\* \* \*

I just tell them you never start trouble but if it comes to you, you handle it to the best of your ability.

\* \* \*

I usually told them to let one of the teachers be aware of the problem. Try not to fight.

\* \* \*

I tell them not to listen to what anybody says, don’t let them get you angry. But then if they bully them or push them to go tell somebody else, not to do it themselves.”

\* \* \*

## YOUTH BEHAVIOR

### Cultural Definition of Youth

Some of the terms used in this Chapter have definitions that may differ considerably from those used in mainstream society. Tribal youth, for example, are traditionally defined as anyone younger than the community elders. This differs from the mainstream definition of youth as those under the age of majority; whereas in this tribal society it is usually individuals in their mid to late 40’s who are often considered to be youth. Community members reported that graffiti, gang wannabes (not real gang members), petty theft, loud music and parties, garbage thrown about on neighboring lawns,



victimizing and/or terrorizing each other are common youthful behaviors that negatively affect the tribal community.

### Why It Is Important To Examine “Youth Behavior”

It is important to examine tribal youth behavior because it is often a harbinger of the future of the tribe. The tribal council knows this and is taking emergency-like efforts to prevent what might be called the inevitable. The council has set up the Montessori Academy, where youngsters are taught traditions and values of the tribe. They learn the language from elders and in doing so, they learn of the importance of respecting the elders.

This study found that social deviance and criminal behaviors engaged in by tribal youth should not be perceived as unavoidable. Affirmative action taken by both tribal and federal authorities may be required to prevent the more extreme cases of elder abuse and youth crime. Protective factors may be able to insulate the tribal community from the negative effects of past assimilationist policies, economic disparities, the inevitable intrusion on tribal life of an advancing technological world that has brought about the internet, satellite television and other invasive technologies. Community action may be critical to responding to and preventing the types of social deviance described earlier while controlling for advances in the surrounding society that may affect tribal life.

### ELDER ABUSE

In Carson's 1995 review of the literature on elder abuse in Indian County, he deduced several factors which might put elders at risk for abuse and may protect them from such. Carson cited a study by Wolf and Pillemar (1989, p. 18) which described the types of abuse elders suffer such as (a) physical violence, (b) psychological abuse, (c) material abuse, misappropriation of personal items, (c) active neglect, and, (d) passive neglect. Sexual abuse is often cited by researchers as a form of abuse that is directed towards elders (Steinmetz, 1990). Sex abuse was not mentioned nor was there evidence of such uncovered during this study. Carson (1995, p. 29) reported that certain risk factors exist. These include poverty, changes in kinship systems, acculturation stress, and other factors that include financial dependency, poor health status of many elders, negative effects of technology, changes in values, a lack of interest in the elderly by young people, and the fact that many young people are leading the tribe as opposed to the elders. Protective factors included teaching children to respect the elders, a cultural or mutual dependence and respect, strong extended families, deep tribal cultural customs, and optimism and contentment that are derived from a “cosmic identity,” deep sense of spirituality, and ritualistic and religious practices.

### Types of Abuse

There were also many reports of elder abuse, in particular neglect and financial fraud. The “youngsters” (the adult children of the elders) often misappropriate or steal their elderly parents' and grandparents' stipends so, that at the end of the month, the elders are forced to seek assistance for basic nutrition from the tribe. One male reported he knows of a grandmother who is

*“78 years old and they’ll leave her at home. They take her beadwork. They take her personal stuff and sell it and drink and buy drugs on it.”* Also, there are other elders who are physically abused and live in fear of their own relatives. Several subjects reported that elders are being *“left at a certain location and that (no one is) checking back with them as far as needing the bathroom or needing to eat.”* Stories of this kind were commonly told by interviewees. Property crime such as theft occurs, too.

### Property Crime

Some tribal youth appear to be taking advantage of an Indian cultural value that suggests the elders provide for the younger generation. The elderly victims feel obligated not to report this abuse as it would be perceived as neglecting ones obligations to family. One elderly male reported he *“seen a little boy hitn’ his grandmother because his grandmother wouldn’t give him what he wanted.”*

## TRIBAL RESPONSES TO ELDER ABUSE

### Victims

Victims of elder abuse are cared for with great sensitivity and concern by the tribe. The use of court appointed conservatorships and/or placing the elder in the tribally-run nursing home where they are going to be cared for are a few of the methods employed to bring feelings of justice to the victim as well as to protect them from future harm. Also, the Council of Elders visit with the abused elder to keep them informed on tribal matters.

### Offenders

Because it is widely believed (and the data show) that much of the financial abuse stems from the offender’s substance abuse problems, additional steps in addressing the offender are used. Restitution, participation in Peaceful Spirits, jail, prison, temporary restraining orders are often used. In extreme cases, the Tribal Council will enforce the Removal and Exclusion Act (Title X of the Exclusion and Removal Code, Sub-Section § 10-1-102 Grounds for Exclusion and Removal) to permanently remove the offender from the reservation community; the modern form of banishment.

The purpose of this section is to explore the dynamics of elder abuse and community-level violent victimization. Re-conceptualizing “abuse” as violence from simply a misuse of the individual, allows for the study of community level pathology with implications beyond the borders of the instant tribal community to the whole of Indian Country. In the next Section, I examine how elder abuse is more than an individual level of victimization but also how the Indian community in general and the Ute community in particular is harmed by this type of behavior. Tertiary victimization of the community is important to understand because it is well known that communities that are inactive or ineffective in their efforts to stop individual level violence are often more prone to experience it and its accompanying

harmfulness and continued perpetuation. With this in mind, I turn to the other perspective of elder abuse as community level victimization.

## ELDER ABUSE AS COMMUNITY LEVEL VIOLENCE

Many interviewees reported that they have viewed tribal youth disrespect the elders in the community. Much of this behavior is the result of substance abuse and modernity, i.e., how a person is being raised these days. The most common behaviors reported to me was yelling at the elder, taking their money or possessions, not holding the door open, not checking on them or their needs, and youth *“playing their music too loud.”* When I asked about their views of these types of behaviors directed toward the elders, many people reported that it as being *“disgusting,” “a disgrace to the tribe,” “sad,” “angered,”* and that it is a reflection of *“how children are being raised these days.”* Many reported that it is also a result of poor parenting; many citing past child abuse and neglect. It was also reported that elders of ancient times foretold of a time like this where people would not respect the tribal ways and that many harms will come. Several people believe that the tribe is currently in *“those times.”* The entire tribal community is being victimized by those who show no respect for their cultural values and spiritual practices.

### Tertiary Victimization

Many Ute people felt that disrespect of the tribal elders has a negative overall affect on the entire tribal community. One woman told me that *“when someone gets hurt, it goes down the line” and hurts everybody else.* This is where the entire tribal community becomes the tertiary victim of violence.

I asked the people what elder abuse does to the tribal community. Many responded in a similar fashion that it affects the entire tribal community. Common comments such as; *“it gets everyone riled up;” “it gives it a bad outlook on the community;” “it makes it look bad because then you have people coming in and saying we don’t have no manners of any sort;”* and *“it makes the tribe look bad.”* The people believe that disrespect of tribal elders victimizes the community in such a fashion that *“it tears it apart.”* Sadly, some share the opinion that *“you can see the community just dying in that sense”* and *“it brings down the whole community”* when the tertiary victimization is known by all. I wondered what this type of behavior has on the psychology of the community because people felt that *“our elders are our tradition”* that they (the elders) *“think they are not needed, not wanted.”* Many believe that *“if you don’t respect the elders then you don’t respect anything”* when *“you see that they will do that to their own people”* and that *“it’s like a slap in the face.”* One woman summed it up when she said, *“it’s just terrible because the elders are sad they sit in their homes and they just like to talk and tell stories.”*

Some short-term ramifications of this behavior are personal. *“It makes me feel ashamed”* and *“it makes people feel upset”* several commented. The long term effects on the tribal community are seen as more detrimental, as one woman told me, *“cultural-wise, it takes away some of the stability of the tribe,”* while another said, *“It partially breaks down the social structure of the*

community.” Others reported a more spiritual aspect of the long-term ramification of tertiary community victimization when he told me, *“maybe mother earth punishes us by no rain, the drought, no snow”* while another said, *“they’re gonna learn in life that the Creator is gonna come back and say, this is your punishment (to the youth) ... I believe in two kinds of punishment: justice punishment by the court system and then there’s Creator’s punishments by life experiences.”* Many believe that *“It shows that we are not teaching our children.”* And, unfortunately, *“They (tribal youth) will grow to be that way”* and then it will be the hurtful ones who are now hurt themselves. A man reported, *“One of these days the children will be elders and they would not want to be treated that way”* and that he believes that *“when it’s your (the youths’) turn, don’t get mad, don’t cry.”*

#### What Should Be Done About This Behavior?

The community was very much interested in identifying what should be done about this behavior to prevent long-lasting effects on the group. A man told me, *“the family needs to be pulled together and identified when this is happening...some type of intervention needs to take place...it would have to be someone who’s native American.”* Many felt the tribe should intervene with talks and other alternative types of counseling such as having *“more interaction between the age groups; teach what is traditional, what is right and wrong”*; and, that a *“a member of the tribal council talk to them”* to *“encourage them to respect the elders.”* This is necessary, many felt because as one said, *“By changing their attitude, they are adding to the strength of the tribe as a unit;”* thus enabling the survival of the cultural and spiritual identity of the tribe.

#### How Can We Change This Behavior?

Most reported that this behavior can be changed by *“teaching traditional values, cultural values, traditional customs”*; *“the whole idea is for the tribe to come together...to become a part of something...it re-establishes eldership”*; and, by *“setting a good example”* for the tribal youth. Many felt that by *“having tribal leaders or medicine men talk to the children instead of a WHITE person because they tend not to listen to WHITE people.”* While several acknowledged that it is hard to change behavior, the tribe should have *“open meetings for people who want to know about the tribe”* or *“gatherings”* because *“if you don’t understand something is when you don’t respect it.”*

#### How Might Ute Spiritual Or Cultural Practices Prevent Community Crime?

I regret not having this question included in the survey instrument. I did, however, ask the interviewees their opinions about how might cultural and spiritual practices might prevent community crime and violence. Their opinions on this matter ranged from *“they could bring back some of the values taught to the children”* to *“they make you respect who you are and your culture and traditions”* to *“if a person wants to change, it would be helpful”* to be involved in these practices. There was a demand made by the community that more young people be required to attend these types of events in order to learn more about the history and culture of the tribe.

### Cultural and Spiritual Practices

Participation in the Bear Dance, pow wows and social networking and organization reaffirms social boundaries and protocols. Several commented, *"I go to visit, watch the Kachina Dances," "my grandfather used to tell me about the old Spanish people, the things they used to do...you grow up with all that, it's part of you."* Whereas spiritual practices work in the same manner as told by several different people, "Sun Dance Eiyweepee, sweats (it gets me settled and soft), men usually dance (*"they suffer for the things in wildlife that are living"*), drumming, sing (*"when I sing, it makes me feel good because I sing for my mother, I sing for my grandmother, I sing for all the women in my family...it protects my dad and I shield my brother"*), pray (*"I pray from the people, for myself, my family, my tribe"*), four day fasting *"it's my tribal culture and tradition."*, *"I've already had two visions...I'm waiting for my third vision. When I have my third vision then I will dance."* Visions tell the dancer what his colors will be and how he will whistle. These are perceived as critical elements to maintaining a spiritual identity.

\* \* \*

### Are Evil Spirits Involved in Violence and Conflict?

Yes. When my oldest daughter, when I was pregnant with her. Her dad, that was 21 years ago, 22 years ago. When I was pregnant with her. I didn't know he had a loaded rifle, he had been drinking. He came home he was really mad about something or other. When you're a wife you know...you have that fear, you know that feeling. You know something's gonna happen but you don't know what. You got that fight or flight instinct in you and you try to be the peacemaker or whatever. I just happened to get up and I was coming to our bedroom and I heard a shot and ... if I hadn't turned, he would have killed both me and my daughter. He missed me. He was having a hard time repositioning that rifle. I thought this was something I'm really gonna have to know how to talk to him about. It wasn't only that. He was ... we lived over at Ute Mountain. The place we lived at was kind of possessed. The house was possessed. I saw it in his face. His eyes were yellow. His lips curled back and you can't tell me a natural human being can do that. His voice changed. It got really low. It reminded me of something I saw in a movie. But he had been drinking. He called me a bitch, a whore. He used to hit me with his hands too. I defended myself with my hands being raised in front of my face. And I ran even when I was pregnant. He hit me with the rifle butt on my ankle and I got a scar there. I never had where he broke a bone or anything like that. I used to talk to a counselor and I used to go see some of my friends who were counselors. I think it was just a matter of talking about the situation. Clearing your head is really important because if

your spirit holds all that in you then your spirit gets sick. To me that's the way cancer is too. People have a lot of anger or a lot of hatred and I think that's what causes cancer to spread. Also, I've taken courses on domestic violence. My daughter is aware, too. The police were never involved. When I was pregnant with my second daughter and her father, he used to come home drunk and we'd fight. I used to tell my daughter to call the police if things get really bad. There were a couple times the police came and one time he was in jail because he was mumbling something. I didn't have to sign anything. It was fine. He was in jail for 3 or 4 months. One time he jumped on my car and my daughter thought I ran over him. I said, "No, I didn't." I had access to a working telephone but he never prevented me from reporting him to the police. I never used the Crime Victim's Services. He's dead. No contact in 16 or 17 years." [Do you think there are Bad Spirits involved in domestic violence?] "You know, some people say there is but I don't think so. I think that you as a human being should be aware of what kinds of situations you put yourself in. I understand that drinking and drugs ... if you're strong. You need to be a strong person. It took me a long time to understand what it meant. Once you have kids and your own home, then you understand what being strong is. When these Indian men say they are possessed and they run off to see a Medicine Man.

\* \* \*

Many interviewees reported they believe some sort of bad spiritual influences are at least partly responsible for violence and conflict among the group. While many reported that "*bad people*" who "*drink and drug*" or are "*possessive and jealous*" are responsible for their behavior, many more felt that the behavior was caused by "*bad medicine*." Reports of bad medicine were common. People told me stories of personal encounters with bad medicine and how they were related to conflict in the home and with others. Such stories include the following: "*I feel like bad medicine is being used. It's just overwhelming. People saw they can see the devil*"; *downtown in the bars and at the casino. I've seen the devil in the boy's dorm. He had horns, I just seen the silhouette of him and I could feel evil*"; or "*witchcraft I believe in that, I know it's true. I've been to a medicine man ... I believe because it's my tradition*." One woman reported the following: "*we found out we were being witched. They (the spirits) wanted us to split...can't say who was witching us, it was just a feeling in the house, it was scary so I saw a medicine man and he helped us out. He took a lot of stuff that was buried right in our house*." While another woman reported that she too sought the services of a medicine man when she felt "*witched*"; "*When we first started having troubles, we went to see a medicine man. The medicine man told us things that had occurred, where he had picked up the bad medicine. When he (my husband) was out drinkn' somebody stole something of his, hair maybe*." Finally, one older woman told me the story of her recent experience with witchcraft. "*We went to a medicine man to find out why my son was acting the way he did, why*

*he hit his sister. We found out that people were jealous of my little family and they wanted us to fight each other. The medicine man really didn't go into detail. I can read things from charcoals, I saw things for myself. I saw images. I saw persons doing that."*

#### WHAT KEEPS YOU FROM ENGAGING IN CRIME?

While there was statistical significance found in the prevalence of crime between the Indians and the non-Indians thus indicating there is more crime among the Indians there are, however, internalized social factors that inhibit many members from committing crime. I determined this using a card exercise to help me to understand what keeps these Indians from engaging in crime. Table 9 illustrates the breakdown of reasons why these Indians do not engage in crime. Notice that more people reported that they simple "grew up" and "matured" and that was what keeps them from committing crime. Simply, they aged out of their crime prone years.

Table 9.  
Why Do You Not Engage in Crime (n = 66)

Variable	Frequency	Percent
Parents Told You It Was Wrong	13	19.7
Matured ("Aged Out")	20	30.3
Has Responsibilities	15	22.7
Does Not Want Personal Shame	13	19.7
Does Not Want to Shame	13	19.7
Family/Band/Tribe		
Does Not Want to Go to Jail/Prison	10	15.2
Needs to Set a Good Example for Children	13	19.7
Has Children To Care For	15	22.7
Would Not Want to Be a Victim of Crime	10	15.2
No Need to Commit Crime	11	16.7
Prefers Appropriate Legal Channels	15	22.7
GENDER		
Female	41	62.1
Male	25	37.9

The data represent the largest number of respondents agreeing with the statement. The f and % will not add to 100% as these questions were asked separately.

As in all other communities crime does occur on the reservation. While there were differences between the Indians and the non-Indians, it was not as significant to the members as the current rhetoric surrounding violence in Indian Country suggests it to be. However, there are more serious crimes occurring on and near the reservation community that are perceived as much more harmful to both the future of the tribe and that are perceived to have a longer lasting effect upon the tribe and its membership. In the next Chapter, I discuss the nature and impact of cultural crime on individual identities and the cultural, spiritual, and collective identity of this tribal nation.





## CHAPTER 6

### CULTURAL CRIME ON THE RESERVATION

#### INTRODUCTION

This Chapter seeks to inform the reader about matters that are considered to be cultural crimes. Such matters include violations of Title 25 – Indians of the United States Code, violations of Indian cultural values, and other such similar behaviors. It is important to examine Native American Indian identity as well as cultural values before one can fully appreciate the type of cultural victimization that occurs as a result of cultural crime. To help better frame this discussion, crime is defined as legislatively prohibited behavior. In this book, Indian identity was measured by questions asked of survey respondents that were developed for an earlier study of Indian identity.

#### NATIVE AMERICAN INDIAN IDENTITY

##### Ohio Reformatory for Women: The Prisoner Study

The only data on Indian ethnic identities among women prisoners found in the search of the literature come from a study conducted during the summer of 1998 (Abril, 2003 & 2002). The data collected during this study were obtained from responses to open-ended questions distributed to all prisoners at the Ohio Reformatory for Women (ORW), in Marysville, Ohio. At the time, ORW had the largest female prisoner population in the state, with more than 1,700 prisoners. The Ohio Department of Rehabilitation and Correction demographic statistics, current at the time of the study, indicated that ORW's population was predominantly Black (n = 1,134; 56%); White was the next largest group (n = 899; 44.14%). The Ohio agency reported that only 1 Asian and 2 Native American women were housed in ORW (personal communication, 1998). U.S. census data from 1990 for Ohio indicated that the state's general population was almost all White (87.7%), with far fewer Blacks (10.6%). Other ethnic groups, according to official government statistics current at the time of the study, constituted less than 2% of the state's residents.

The participants in this prisoner study were all adult women housed in ORW. They ranged in age from 17 to 70 years. Prisoner participation for this study was requested by ORW's warden, who posted a memorandum to all prisoners on bulletin boards throughout the institution, including each housing unit. The memorandum advised prisoners of the nature of the study, reported the steps the institutional staff was taking to facilitate distribution and

collection of the questionnaire, and included a request for their participation. The warden also issued a memo to ORW staff advising them of the study and instructing them to assist participants with completing the questionnaires. In particular, staff was to read and interpret any questions from prisoners and to provide referral services for any prisoner who may become in need of counseling as a result of the study.<sup>4</sup>

Blank questionnaires were sent to the ORW warden. Prison staff distributed and collected the instrument from the prisoner population during the morning and afternoon counts on two days during the week of August 5<sup>th</sup>, 1998. The warden had instructed the staff to make certain the prisoners, who were away from their usual posts at count, be given the opportunity to complete the questionnaire. More than one third (35.6% or 601 out of 1,700) of the prisoner population of ORW returned a questionnaire to the researcher. The questionnaire included an introductory letter requesting participation. Many culture- and class-specific terms and phrases were used throughout the instrument. See Abril (2002 & 2003) for complete discussions of the methodology and the study's strengths and weaknesses.

In her 1998 study of Indian women in prison, Abril reported that state officials argued that there were only two Indian women in their prison (personal communication, 2002). A significant finding from that study was that there were actually 255 women reporting they identified as Indian (Abril, 2003). According to Abril, much of the difference in accounting may be explained by the reality that people are, as one Ohio Reformatory for Women respondent noted, identified by others by "*how they look*." That is, if one "*looks Black*" then they will be identified by others as Black, regardless of their actual ethnic identity. Another possible explanation for the discrepancy is that upon initial imprisonment, perhaps during the intake phase, prisoners may be unwilling to reveal this personal data to prison staff. Thus, the staff may be left to rely upon the "*how they look*" standard or the identity data from the court and arrest file, which usually employs the "*how they look*" standard as well. There have been no other published works in this area on Native American Indian identity.

## MEASURING INDIAN IDENTITY

"Has someone asked you how much Indian you are?" If someone in my tribe asked me that they may be insinuating that ... I may feel offended." [Why is that?] "Because everyone knows everyone and basically ... it may be an inference that you are not a "full blood." [How important is that?] "To be full-blood it's not that important, you know, if you are Indian, I consider a person who is maybe a half-breed and who goes to the spiritual or traditional ceremonies and then we have a full-blood who doesn't go to anything, who's drinking, I have more respect and identify the half breed as being more Indian than the full-blood." "And, someone says to you, "But you don't look like an Indian" how do you feel about that? If you don't

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<sup>4</sup> Counseling availability was a requirement for study approval.

look like an Indian, you can't help that. I'm  $\frac{3}{4}$  Southern Ute and  $\frac{1}{4}$  Spanish. My dad's half Spanish and half Ute and my mom's full-blood Ute.

\* \* \*

Ethnic identity was constructed as a dichotomous variable and measured by self-reports. Anyone reporting a Native American Indian tribal affiliation was classified as Indian. Any prisoner self-identifying as Indian or providing cross-validating information that suggests the respondent is an Indian were also classified as Indian. All other cross-validating measures were coded as dichotomous variables (0 = Not Reported and 1 = Reported). Discussion of non-Indian identities is beyond the scope of this report.<sup>5</sup> Other measures of Indian identity included the following: (1) reporting the name of ones own tribe/tribal affiliation; (2) reporting being an enrolled member of ones own tribe; (3) reporting family members enrolled in ones tribe; (4) reporting knowing ones family Indian heritage; (5) reporting a family members' attendance at an Indian school; (6) reporting contact with a tribe; and, (7) reporting visiting ones tribal land or reservation.

These cross-validating measures of Indian identity were not simply contrived by the researcher. They have their basis in knowledge of modern Indian tribal enrollment and practices grounded in the oral tradition of Indians. One's own ethnic identity may be taken for granted by those within a non-prisoner population, where familial relations are more likely to be better intact than those of a prisoner's (Belknap, 2001). Moreover, if one knows their ethnic identity, it is hypothesized that they would also know from which tribe they hail or tribal affiliation they maintain, and, possibly, their own familial Indian heritage. Other measures such as enrollment of one's self and family members and family members' experiences in an Indian school may be information not shared with the prisoner and their family. Finally, contact with ones tribe and visits to ones tribal land or reservation may not be as likely for prisoners as the costs associated may be prohibitive, even if the correct tribal group or reservation name is known. With these cross-validating measures, I was able to determine if a research participant from either the SUICSS or the ORW study were accurately reporting a Native American Indian ethnic identity.

#### Comparison of SUICSS and Prisoner Samples

In this analysis, I separated the subjects into two groups: Indian and Prisoner. Descriptive statistics were identified in the first analysis. Tables 11 and 12 present the descriptive statistics for the Native American Indian identity study.

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<sup>5</sup> As males were not included in the ORW study, they were excluded from the analysis reported in this Section.

Table 10.  
Descriptive Statistics on Native American Indian Identity

Variable	Indian (%) (n = 312)	Prisoner (%) (n = 255)
Reported an Indian Identity	186 (59.6)	255 (100.0)
Reported Name of Their Tribe	181 (58.0)	120 (47.0)
Reported Enrolled	160 (51.2)	11 (.04)
Reported Familial Enrolled	150 (48.0)	29 (.11)
Reported Knowledge of Heritage	169 (54.1)	221 (86.6)
Reported Attended Indian School	128 (41.0)	13 (.05)
Reported Contact with a Tribe	154 (49.3)	15 (.05)
Reported Visit to Reservation	159 (50.9)	35 (.13)
Age		
29 and younger	0	80 (31.3)
30 – 39	62 (19.2)	102 (40.0)
40 – 54	41 (13.1)	65 (25.4)
55 – 59	36 (11.5)	4 (.01)
60 – 80	45 (44.4)	2 (.007)

Table 11. Native American Indian Identity (Mean Scores and SD)

Variable	Indian	Prisoner	Sig.
Reported an Indian Identity	.47 (.499)	.43 (.495)	.000
Reported Name of Tribe	.46 (.499)	.20 (.403)	.000
Reported Enrolled	.40 (.490)	.02 (.135)	.001
Reported Familial Enrolled	.44 (.497)	.05 (.215)	.000
Reported Knowledge of Heritage	.56 (.497)	.38 (.486)	.000
Reported Attended Indian School	.37 (.482)	.02 (.152)	.000
Reported Contact with a Tribe	.61 (.487)	.03 (.157)	.000
Reported Visit to Reservation	.49 (.500)	.06 (.235)	.000

With the exceptions of Indian school attendance and visits to ones reservation or tribal lands, all variables in the analysis were significant. It should be noted that those who reported an Indian ethnic identity were 16.645 times likely to report the name of their tribe. The ability to name ones tribe should be, at least, a minimal standard for establishing an Indian ethnic identity. A woman reporting an Indian identity was 8.469 times likely to also report that she was an enrolled member of her tribe. Of those with an Indian identity, they were 14.277 times more likely to also report contact with their tribe. Table 13 presents the results of the binary logistic regression analysis.

Table 12.  
Binary Logistic Regression Model

Variable	B	S.E.	Wald	df	Sig.	Exp(B)
Reported Name of Tribe	2.812	.819	11.794	1	.001	16.645
Reported Enrolled	2.136	.672	10.102	1	.001	8.469
Reported Familial Enrolled	1.569	.644	5.942	1	.015	4.801
Reported Knowledge of Heritage	-3.376	.961	12.340	1	.000	.032
Reported Attended Indian School	.393	.591	.443	1	.506	1.482
Reported Contact with a Tribe	2.659	.647	16.907	1	.000	14.277
Reported Visit to Reservation	.814	.665	1.500	1	.221	2.257
Age	1.623	.293	30.567	1	.000	5.066

This study found that Indian women who are incarcerated will provide the same ethnic identity data as confirmed Indians. Thus, the Native American Identity Questionnaire is a reliable instrument for gathering ethnic identity data from Indians whether they are incarcerated or not.

#### NATIVE AMERICAN INDIAN CULTURAL VALUES

I don't think WHITE PEOPLE should be involved in Native religion. Because I think that they'll tend to say, "Oh, I know what you're talking about" but they don't see what's inside that skin.

\* \* \*

I would be kind of offended. If it was another Indian, I wouldn't be so offended but I think that if it was a tribal elder. We've got this notion that if someone likes something you have, you're supposed to give it away. But then there are some of those items that are given to you in a good way to help in your life and those things you can't give away." "I would blow them off (a non-Indian).

\* \* \*

If they're artifacts, they belong to the tribe and to the tribal people. I've known of my husband's friend's who would steal the artifacts and go and sell them to different places.

\* \* \*

The values held most dear to a society will be codified, as Durkheim (1933) suggested. Nine of the ten Indian cultural values used in this study reflect beliefs codified in statutes found in Title 25 (Indians of the United States Code) and in cases decided by the United States Supreme Court. For instance, one cultural value used in this work, selling Indian burial objects, is a

violation of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) 25 U.S.C.A. §§ 3001-3013 (Supp. 1991). Another cultural value employed (respect of tribal elders) has a large anthropological literature that supports the claim that disrespect of tribal elders would be a violation of Indian cultural norms (Neumann, Mason, Chase, & Albaugh, 1991).

The ten Indian cultural values items are: (1) non-Indians trespassing onto Indian ceremonial or Indian burial grounds (a violation of the American Indian Religious Freedom Act (AIRFA) Public Law No. 95-341); (2) non-Indians buying Indian bones or other Indian cultural artifacts (violations of both NAGPRA, 25 U.S.C.A. §§ 3001-3013 (Supp. 1991) and the Indian Arts and Crafts Act, 18 U.S.C.A. §§ 1158-1159); (3) non-Indians hunting or fishing on the reservation without a tribal permit (a violation of the ruling in *New Mexico vs. Mescalero Apache Tribe*, 462 U.S. 324); (4) non-Indians taking natural resources such as plants, rocks, or other sacred items off the reservation (a violation of the Archaeological Resources Protection Act, 16 U.S.C.A. §§ 470aa-470ll (1988)); (5) non-Indians practicing Indian spiritual ceremonies (a violation of the decision in *Lyng vs. Northwest Indian Cemetery Protective Association* 485 U.S. 439 and the American Indian Religious Freedom Act (AIRFA) Public Law No. 95-341); (6) Indians selling Indian bones and other Indian cultural artifacts (a likely violation of NAGPRA, 25 U.S.C.A. §§ 3001-3013 (Supp. 1991) if the Indian is not a member of the tribe holding jurisdiction over the reservation); (7) Indians not respecting tribal elders (Neumann, Mason, Chase, & Albaugh 1991); (8) Indians taking natural resources such as plants, rocks, or other sacred items off the reservation (may be a violation of the Archaeological Resources Protection Act, 16 U.S.C.A. §§ 470aa-470ll (1988)); (9) Indians hunting or fishing on the reservation without a tribal permit (may be a violation of the ruling in *New Mexico vs. Mescalero Apache Tribe*, 462 U.S. 324); (10) Indians stealing money from the tribe (for example, a casino employee taking money from the tribe's casino or bank accounts (a violation of Tribal Revenue Allocation Plans, 25 C.F.R. Part 290). These Indian cultural values were later found to be reliable measures of some of the beliefs about cultural crimes by most of the Indians in this study (Abril, 2005 & 2007).

#### Violations of Indian Cultural Values By Non-Indians

##### Item 1. Non-Indians trespassing onto Indian ceremonial or Indian burial grounds

Overall, most (70.5%) people in this study feel that non-Indians trespassing onto sacred Indian grounds is a serious violation of an Indian cultural value. There were differences between the groups; 82.4% of the Indians felt it was serious, whereas only 59.9% of the non-Indians felt this way. Only 10.7% of the Indians believed it was not serious, whereas 22.8% of the non-Indians felt this way; which means that the results reported here are probably reflective of actual differences between the sentiments of Indians and non-Indians who participated in this study.

##### Item 2. Non-Indians buying Indian bones and other Indian cultural artifacts

Overall, most (71%) people in this study feel that non-Indians buying Indian bones and other Indian cultural artifacts is a serious violation of an Indian cultural value. There were differences between the groups; 81.8% of the Indians felt it was serious, whereas only 61.6% of the non-Indians felt this way. Only 9.8% of the Indians felt it was not serious or a little serious, whereas 20.1% of the non-Indians felt this way.

Item 3. Non-Indians hunting or fishing on the reservation without a tribal permit

Overall, most (70.8%) people in this study felt that non-Indians hunting or fishing on the reservation without a tribal permit is a serious violation of an Indian cultural value. There were differences between the groups; 85.6% of the Indians felt it was serious, whereas only 57.8% of the non-Indians felt this way. Only 8.5% of the Indians felt it was not serious, whereas 24.4% of the non-Indians felt this way.

Item 4. Non-Indians taking natural resources such as plants, rocks, or other sacred items off the reservation

Overall, most (72.4%) people in this study felt that non-Indians taking natural resources off the reservation is a serious violation of an Indian cultural value. There were differences between the groups; 72.4% of the Indians felt it was serious, whereas only 60.5% of the non-Indians felt this way. Only 17.3% of the Indians felt it was not serious, whereas 24.8% of the non-Indians felt this way.

Item 5. Non-Indians practicing Indian spiritual ceremonies

There was disagreement between the Indians and non-Indians in this study of the seriousness of non-Indians practicing Indian spiritual ceremonies. Most (68.1%) of the Indians felt that non-Indians practicing Indian spiritual ceremonies are engaged in a serious violation of an Indian cultural value, whereas only 33.8% of the non-Indians felt this way. Only 13.4% of the Indians felt it was not serious, whereas 32.1% of the non-Indians felt this way.

#### Violations of Indian Cultural Values by Non-Indians

Item 6. Indians trespassing onto Indian ceremonial or Indian burial grounds

Overall, most (74.1%) people in this study feel Indians selling Indian bones and other Indian cultural artifacts for personal gain is a serious violation of an Indian cultural value. There were some agreement between the groups; 67.2% of both the Indians and non-Indians felt it was serious. Only 9.7% of the Indians felt it was not serious, whereas 17.5% of the non-Indians felt this way.

Item 7. Indians not respecting tribal elders

Most (79.4%) people in this study felt that Indians who do not respect tribal elders are committing a serious violation of an Indian cultural value. There were differences between the groups; 86.7% of the Indians felt it was serious, whereas only 72.6% of the non-Indians felt this way. Only 6.8% of

the Indians felt it was not serious, whereas 12.3% of the non-Indians felt this way.

Item 8. Indians taking natural resources such as plants, rocks, or other sacred items off the reservation

Overall, most (62.4%) people in this study feel that Indians taking natural resources off the reservation is a serious violation of an Indian cultural value. There were differences between the groups; 55.7% of the non-Indians and 68.3% of the Indians felt it was serious. Only 16.3% of the Indians felt it was not serious, whereas 22.9% of the non-Indians felt this way.

Item 9. Indians hunting or fishing on the reservation without a tribal permit

There was disagreement between the Indians and non-Indians in this study of the seriousness of Indians hunting or fishing on the reservation without a tribal permit. About half (54.7%) of the Indians felt that Indians hunting or fishing on the reservation without a tribal permit is a serious violation of an Indian cultural value, whereas only 44.9% of the non-Indians felt this way. Both Indians and non-Indians (28% of Indians and 28.3% of non-Indians) felt it was not serious.

Item 10. Indians stealing money from the tribe (e.g. a casino employee stealing from the casino or a tribal council member stealing from bank accounts)

Most (88.8%) people in this study feel that Indians stealing money from the tribe is a serious violation of Indian cultural values. There were significant differences between the groups; 92.2% of the Indians felt it was serious or very serious, whereas 85.5% of the non-Indians felt this way.

“Thems’ Fightn’ Words”

Common Questions and Statements Made by Non-Indians to Indians

In his work on face-to-face behavior Goffman (1967, p. 5-12) wrote that people will often negotiate “face” in social circumstances. He defined face as “an image of approved social attributes” and a “pattern of verbal ... acts ... by which he expresses his view of the situation and through this his evaluation of the participants, especially himself.” The following analysis of comments made by non-Indians toward Indians suggests that non-Indians may be trying to save their cultural face in light of the social circumstances that they are in a geographical area where the cultural norms and values of the Indians conflict with their own. More importantly, they may feel threatened by the changes in society that have allowed Indian cultural norms and laws to take precedence over theirs in areas under tribal authority. Ten interview items asked the Indian subjects how they felt when non-Indians asked ten different questions based on stereotypes of Indians.

“How much Indian are you?”

A common question often asked of the interviewees by non-Indians is “How much Indian are you?” referring to the blood quantum standard of



federal policy long ago abandoned. During the interviews, 75% (n = 30) of those responding, felt positively about this question. Common sentiments included, *"I am proud to be what I am," "I'm proud of my Native American culture,"* and, *"It doesn't bother me."* A smaller percentage (25% or n = 10) were offended by this question. These subjects felt the following feelings when they were asked this question, saying they felt *"like shit," "it makes me mad," "I don't think it's anybody's business,"* and *"...very offended because I am Native."* Other people reported odd encounters with people asking them this question. One such man reported, *"I get mistaken for being Hispanic, not Native American or Indian, it's always Hispanic. They start talking Spanish to me, and I'm like, you need to talk to me in English. I don't speak Spanish. (I tell them) If you want to talk to me speak English."* Finally, one woman said of an encounter on the East coast, *"There was a time when I was back east and someone said to me, 'Well, how do you like our country?' And I said, 'How do you like OUR country?'"* The remaining interviewees (n = 31 or 43.7%) had no response or feelings about this often asked question. *"I don't feel nothin' about that"* and *"indifferent"* were common responses. It should be noted that only a slight majority (50.7% or n = 36) reported having been asked this question, others reported never having been asked such by a non-Indian (49.3% or n = 35).

"You don't look like an Indian."

Interviewees were less upset when asked how they feel about the statement, "You don't look like and Indian." Of those responding, a slight majority (n = 18 or 25.4%) had a negative response including, *"it makes me kind of embarrassed," "I'd be offended because I think I look like an Indian,"* and *"they are ignorant, I know who I am."* There were 15 (21.1%) Indians who had a positive response to this statement such as *"it's kind of funny"* and *"it doesn't bother me"* were common responses. The remaining 33 (46.5%) Indians had no response to this item. Most (66.2% or n = 47) subjects reported not being asked this question, whereas 33.8% (n = 24) reported they had been asked this question by a non-Indian.

"Where are the ancient burial grounds?"

Interview participants were very upset when asked how they would feel if a non-Indian asked about the location of the tribes' ancient burial grounds. Of those responding, 63.4% (n = 45) felt negative about this type of question with responses including the following, *"they don't need to know," "that would make me mad,"* and *"I wouldn't tell them anything about that because that's more sacred to us."* One man said, *"I don't believe we should have to disclose this type of information to non-tribal members or non-Native Americans."* Only 4 (5.6%) subjects who reported a positive sentiment said something similar to, *"It doesn't bother me."* There were 22 (31.0%) respondents who had no opinion. Most (90.1% or n = 64) people had not been asked this question, whereas 9.9% (n = 7) had been asked.

“We need a “real” Indian.”

Interviewees overwhelmingly reported that they would be upset if asked to participate in a spiritual ceremony by a non-Indian so that they (the non-Indian) could have a “real” Indian involved. Of those responding to this item, 63.4% (n = 45) reported a negative response to this request. Such responses included, *“They’re probably trying to find out more about the spiritual ceremonies”* and another added, *“they don’t need to know”* while yet another said, *“They have no business with the spiritual stuff,”* and *“It’s our religion not theirs”* because, as another said, *“A WHITE person’s got no reason to be in that! The WHITE PEOPLE, they’ve got their own God they should not barge in on other people’s beliefs”* stated one subject while another said, *“When Native Americans have ceremonies, it’s for Native Americans!”* There were no positive responses from the Indian subjects about this item. Most (97.2% or n = 69) reported they had not been asked this question, whereas only 2.8% (n = 2) had been asked this by a non-Indian.

“May we take your picture?”

A common request by non-Indians is to take a picture of a “real” Indian. Most (n = 52 or 73.2%) subjects reported never having been asked this question by a non-Indian. Another 26.8% (n = 19) reporting having been asked. Of those who had been asked, 56.3% (n = 40) felt negative about it. Such responses from the subjects who were asked and felt negative included, *“I don’t like my picture taken,”* *“I think it’s in bad taste that they ask,”* and *“It’s offending.”* Only 8.5% (n = 6) felt the opposite. One subject reported to me that she has had her picture taken to educate non-Indians because *“The people from out east do not know that we do not live in tee pees anymore. We don’t paint our faces. We don’t wear our traditional clothes every day.”* Twenty-five (35.2%) people gave no response to this item.

“May I have/buy your cultural artifacts?”

Most (90.1% or n = 64) Indians reported they had not been asked this question, whereas 9.9% (n = 7) reported they had been asked for their cultural artifacts by a non-Indian. Of those reporting their sentiments about this type of question, most (81.7% or n = 58) felt negatively. Feelings ranged from *“I would feel offended because of their ignorance,”* *“we strongly believe in our religion that you are not supposed to disturb the Spirits (that reside in the artifacts),”* *“I’d feel offended because they’re mine. They belong to me. It’s like giving your Native identity away,”* and *“I’d feel offended because it isn’t part of their culture. To Native Americans, things have a lot of meanings to them ... people shouldn’t have them unless they know the meanings.”* A little over 18% (n = 13) had no response or nor spoke of their feelings regarding being asked this question by non-Indians. There were no positive responses to this question.

“All Indians have alcohol and gambling problems.”

One of the most common statements made about Indians involves alcohol abuse and gambling. When the subjects were asked how they feel about these types of statements, the vast majority felt negatively. A large

majority (90.1% or  $n = 64$ ) reported feeling negative about this statement. Common reactions during the interviews, “*not all Native Americans are that way*,” “*it’s offensive to hear those things*,” “*it makes me feel very low*,” and “*it angers me*.” Only 5.6% ( $n = 4$ ) felt positive, making such statements as “*I don’t think it’s offensive*.” Only 4.2% ( $n = 3$ ) were ambivalent about this type of query. An overwhelming majority (94.4% or  $n = 67$ ) of subjects reported having heard this stereotypical statement, whereas only 5.6% ( $n = 4$ ) had not heard these types of statements.

These statements are perceived by Indians as verbal attacks not unlike racial epithets. These types of bias motivated verbal attacks could be explained by ignorance of modern Indian culture, biases against Indians (especially in areas where gaming is becoming prominent), or simply because of insensitive inquisitiveness by non-Indians. No matter how one desires to explain this phenomena it does not detract from the reality that these attacks may have deleterious residual effects on individual Indians and, possibly, the entire tribal group.

In her study of Native American Indian identity and violent victimization, Abril (2007) found that the more one identifies as a Native American Indian the more violent victimization they will report. She cited examples where individuals were attacked because they chose to express their Indian identity. Using the original work of Professor Kenneth Clark of the City College of New York (1954) that showed that stereotypes have negative effects on the development of children’s self-identities in her discussion, Abril (2007) suggested that long-held stereotypes may be responsible for promoting conflict between these groups. Some may argue that the influx of non-Indians into this tribal society may be causing a form of social disorganization and thus contributing to conflict between these groups. However, solidarity of identity and historical interconnectedness amongst these Indians is likely a major prophylactic to social disorganization. Indeed, social solidarity in pan-Indian identity, as identified by Abril (2003 & 2007) in her study of imprisoned Indian women, acts as a promoter of enhanced self-esteem. It can then be inferred that attempts to denigrate Indians via comments and violations of Indian values are a means to save one’s non-Indian ‘cultural face’ in the path of social change where the once majority (non-Indians who have entered the tribal area) are now the minority.

### *Dominance and Leverage*

Ridgeway and Diekema (1998:79) wrote that “structural conditions of a society encourage people to intervene against others who claim status by dominant behavior.” Disruptions of the cultural practices of the Indians are blatant displays of dominant behavior by non-Indians. The tribal council will invoke its sovereign rights to exclude non-Indians who disturb their cultural affairs (personal communication, 2007). Tribal members will also act in concert to provide a barrier that separates the tribe from those non-Indians who attempt to influence the cultural norms of its members. Social solidarity and community cohesion among the Indians in face of pseudo-dominant behaviors (such as discriminatory attitudes and perceptions of the now minority group members – non-Indians towards the now majority group -

Indians), are uniquely well-suited responses by the Indians to the types of cultural attacks made toward them by non-Indians. Pseudo-dominant behaviors are well-suited for this purpose because they fulfill a number of socially required functions. First, pseudo-dominant behaviors (such as “put downs” and insults against Indians) reinforce the ethnic identity of those victimized by such behaviors. As will be discussed later, reinforcement of ethnic identity can only benefit the victims of this type of cultural violence. Second, the tribe can use its sovereign powers to leverage Congress and the President to take action against those violators by changing the type of reservation from its current checker-board nature to that of a fully enclosed one. Doing so would also eliminate many other social problems unrelated to cultural attacks by non-Indians. Finally, because “joint status hierarchies are a collective product of group membership,” the tribe acting as one force becomes more powerful than the collective product of numerous yet unrelated individuals (Ridgeway & Diekema, 1989:79; Lewis, 2002). Again, this reinforces the collective identity of the Indians. Thus, a type of super-dominance with an associated amount of power leverage is developed among the tribe.

#### *Artifacts of Dominance*

While seen as an artifact of dominance, leverage to change social conditions that are a result of cultural attacks described above are more powerful than the pure production of what Lukes (1972) would define as the first dimension of power, i.e., use of formal social control mechanisms such as the federal government to respond to conflict (Lewis, 2002). Others may argue, however, that Lukes’ (1972) second dimension of power better describes the type of leverage that remains with those who ultimately have the power, i.e., the Indian people. What does this do for the Indians who are under constant cultural attack?

#### *Functions of Racial & Ethnic Conflict*

Similar to Durkheim’s (1933) ideas of the inherent functionality of social phenomena, Himes (1966:1) wrote that “conflict between the races serves four functions; 1) alters the social structure; 2) extends social communication; 3) enhances social solidarity; and, 4) facilitates personal identity.” Each function provides a good framework for understanding the affect cultural conflict has on the tribe as a whole and the members as individuals. Before the conflict, the Indians were a semi-structured society based primarily on band identifications (e.g., Mauche and Capota Bands of Ute Indians) and second on a pan-Ute identity. As the conflict intensified, as a result of movement of more non-Indians into the reservation area, the tribe naturally banded together psychologically to meet this growing threat to their culture and identity. Second, in order to band together psychologically, the tribal members talk among themselves to discuss this problem and what should be done about it thus enhancing social solidarity in the process. Finally, more communication about the cultural threats and harm to the tribe may help the individual Indian to re-certify their own cultural and ethnic identities.

### *Protective Factors of Ethnic and Cultural Identity*

In her study of Native American Indian identity and violent victimization, Abril (2007) found that the more one identifies as a Native American Indian the more violent victimization they will report. She cited examples where individuals were attacked because they chose to express their Indian identity. Mossakowski (2003:318) found that ethnic identity “buffers the stress” of conflict due to discrimination (as was reported earlier) and is a healthy coping mechanism for protecting mental health. She found that those with strong ethnic pride (such as those in this study who scored high on ethnic identity and cultural values) reduces ones susceptibility to depressive symptoms among members of ethnic groups. Indeed, social solidarity in pan-Indian identity, as identified by Abril (2003 & 2007b) in her study of imprisoned Indian women, acts as a promoter of enhanced self-esteem. It can then be inferred that attempts to denigrate Indians via comments and violations of Indian values are a means to save one’s non-Indian ‘cultural face’ in the path of social change where the once majority (non-Indians who have entered the tribal area) are now the minority. Mossakowski (2003:318) suggested that these types of findings have implications for “social-psychological theories on race and ethnicity.” Indeed, the purpose of research into the social phenomena occurring in Indian Country is to aid in the development of theoretical perspectives of social facts within and between ethnic and cultural subgroups residing around the globe.

### *“Being With Our Own Kind”*

Much work has been published in all of the sciences with most in the biological and animal fields and less in the social sciences that show homogeneity (aka “one’s own kind”) is a naturally occurring phenomenon. A recent article in *Science* showed plants roots tended to stay together with their own variety as opposed to mixing with other root types (de Koon, 2007). This phenomenon takes place underground and therefore is not subject to any ‘social’ influences of the environment. Most animals, too, are well known to breed with their own kind. Vanhanen (1999:55) discussed ethnic nepotism in relation to how “conflict is often channeled on ethnic lines.” While Moore et al. (2002:S186) discuss how “interacting phenotypes” may lead to dominance of one over another. Perhaps it is the case that culturally- and ethnically-defined Indians need separation from others; but not to the extent where it jeopardizes genetic diversity among this group. Why is this apparent tangent into the life sciences important to understanding the social and cultural conflict that was found in this study? Because the socially-constructed notion of social diversity and multiculturalism are the constructs of a paradigm of the dominant non-Indian culture; that are likely to be contrary to the paradigms of Indians and other indigenous peoples (Bain, 1939). To protect and preserve indigenous cultures it may be necessary to leverage some of the collective power of Indians to stop these subtle yet insidious attacks on their culture (Abril, 2008).

## Cultural Conflict Affects Collective Efficacy

It is important to understand the effects of violations of Indian cultural values because they may prevent the formation of collective efficacy. Sampson, Raudenbush and Earls' (1997) study of collective efficacy found that collective efficacy mitigates community violence. In order to improve collective efficacy and reduce community victimization, the neighborhood (in this study the reservation is the neighborhood) must have high levels of both informal social control and social cohesion. Conflict between groups residing within the same neighborhood naturally prevents social cohesion amongst these neighbors and inhibits the acceptance of informal social control mechanisms across these two cultural groups. Thus, the community's ability to prevent victimization is reduced.

### *Legislative Protections*

Currently, the means are nonexistent to protect against violations of Indian cultural when outside the boundaries of the reservation. There are remedies available to the tribe if these attacks occur within the boundaries of the reservation. The Southern Ute Indian Tribal Code provides protections for Indian cultural values in formal legal settings and while within the reservation community. Section General Provisions, Article II, Civil Actions § (2) Law Applicable, "any ordinances or customs of the Tribe not prohibited by such federal law" allows tribal court judges to use a variety of traditional methods to adjudicate cases. This is reiterated in Sub-Section § (3) Determination of Custom, "Where any doubt arises as to custom and usage of the Tribe, the court may appoint a private advisor or advisors familiar with the Southern Ute Indian Tribal customs and usage." Second, there are specific tribal laws that govern penalties for violations of tribal customs and values. For example, Title X of the Exclusion and Removal Code, Sub-Section § 10-1-102 Grounds for Exclusion and Removal states that persons may be permanently removed from the Southern Ute Indian reservation for the following offenses: "(1) Repeated violations of tribal ordinances; and, (2) Interference with tribal ceremonies, shrines, or religious affairs." Behaviors that violate cultural values may be interpreted as interference with tribal religious affairs as the Southern Ute values are based on their religious customs.

This tribe has a means by which to protect itself against further cultural deterioration caused by non-Indians. It is important for the tribe to use these legislatively provided means of social control. For the first time in history it is "*cool to be an Indian*" and may be perceived by non-Indians to be acceptable to "*go live with the Indians.*" This ideology is likely to be yet another source of Indian cultural destruction.

This study found Indians and non-Indians who live within the same rural tribal reservation community have different perceptions of violations of Indian cultural values. This is relevant because it helps us to understand that non-Indians may be engaging in behaviors that threaten the continued existence of this tribe. The behaviors of the non-Indian are having a negative effect on the local tribal group and could be stopped using legislative mechanisms already in place within the tribe's judicial code.

## COMMUNITY RESPONSES TO CULTURAL CRIME

Tribal members all stated that if they viewed a cultural offense that they would take affirmative action to stop it immediately. One man related what he would do if he saw youth disrespecting an elder, he reported that he used a Ute dialect as a form of reproach for tribal youth who are disrespecting the tribal elders (Ute dialect: witawac). He reported: *“I would ask them, who’s your parents? Do you understand? I’d tell them in Ute. That means really dirty, I’d disrespect them (the youth). Or, who are your parents? (in Ute language).” [Question: How would you say that in Ute?] “Meguit whatuwakata.” Yeah, that’s what it means. I can speak real good Ute because that’s how I grew up. My people are from Toawoc.”*

In an article in *Science*, it was reported that Euro-American academics have “discovered the burial sites and former living spaces and food stores for what they termed “the vanishing Fremont” (Science, 2007). The Fremont are known to the Ute People as the Stone people, the spirit entities of the Ute ancestors charged with caring for the Ute people. There has been much desecration of gravesites and other sites of cultural and spiritual significance that have been uncovered by these “researchers,” cause much distress among modern Ute people. The tribal preservation offices of all four Ute tribes are actively involved in efforts to stop the harmfulness of these actions by using NAGPRA provisions (personal communication, 2008).

Other attacks on culture are artifacts from previous federal Indian policies such as forced attendance at the Indian schools. One man reported on a relative, *“He went to boarding school; the worst place you can be. He got the whip. They tried to make him forget how to pronounce Ute language and tongue. He wouldn’t forget so he got the whip. He told me he has never forgotten his language. He still talks it. He talked with other Utes where no one could hear them. When they saw a white guy coming, they’d quiet up and say nothing.”* How can these deleterious artifacts of negative federal social policies be managed? I discuss this question in the next Chapter.

## **CHAPTER 7**

### **CULTURAL AND SPIRITUAL INFLUENCE OF COLLECTIVE IDENTITY ON THE HEALTHINESS OF THE TRIBAL COMMUNITY**

#### **INTRODUCTION**

Traditional cultural practices once defended the Southern Ute from internal strife. The Bear Dance, for example, was used in some Indian cultures as a means for divorce as it allowed women to choose another mate for sexual variation and other concerns without significant internal strife. When the white culture clashed with the indigenous peoples of North America, they wanted formal social control mechanisms such as codified laws and punishments, these mechanisms undermined traditional methods of social control. When tertiary mechanisms of social control, e.g. the police, attempt to control behavior they fail because they are not accepted by the indigenous community. The community has introduced strategies to rekindle older methods as a means to end some deviance and its subsequent tertiary victimization.

The purpose of this Chapter is to examine some of the traditional practices used by the Ute Indians to respond to social deviance among its members. This Chapter will also report on repercussions to tribal social control when non-tribal methods were introduced. Moreover, an examination of why these outsider mechanisms of social control have failed in this tribal community will be discussed. Finally, I will discuss some of the strategies offered by the tribal members themselves to respond to social deviance and criminality, in particular elder abuse and deviant youth behavior. It is important to consider youth behavior and elder abuse in this discussion because both types of deviance may be considered as harbingers of future community wellness. Additionally, when communities are able to survive and thrive after such victimization, much can be learned from their experience and may be easily transferred to other indigenous groups who have experienced similar victimizations. It might be beneficial to the reader to now define some of the terms used in this Chapter as some definitions may differ considerably from those used in mainstream society.



## OTHER DEFINITIONS

Primary victimization involves the actual victim of a crime in either a direct or indirect fashion. Secondary victimization involves the effects of the primary victimization onto the loved ones of the victim of crime. Tertiary victimization involves the effects of the victimization on the entire community. For example, while one may not be the primary or secondary victim, simply knowing the criminal event occurred in one's community may have devastating effects on the entire community. The events of September 11, 2001 and its national and, indeed, global impact is just such an example of tertiary victimization.

Primary social control occurs when one regulates their own behavior because they have been taught to do so. Secondary social control occurs when one regulates their own behavior because they fear disappointing others. Tertiary social control involves the use or threat of formal institutions such as the courts and police (Abril, 2008).

### Cultural Values and Community Involvement

Within most sub-cultures, community involvement is central to the survival of the group. Indian communities are no exception. The anthropological and sociological literatures are filled with work that documents the importance of community involvement among Indian tribal people especially as it relates to tribal law development (see e.g., Goldberg-Ambrose, 1994). In the search of the criminological literature, however, no work was found that shows the relevance of Indian cultural values to community involvement in responding to community level deviance, with the possible exception of Abril (2005 & 2004). She suggests that while Indian cultural values are significantly associated with increased reporting of violent victimization by both the primary and secondary victims on the bivariate level, they are not significant within a multivariate analysis (Abril, 2005 & 2007). This discussion seeks to further develop an understanding of the relevance of Indian cultural and spiritual values to community resilience.

### Community Resilience

Community resilience is the ability of a community to pro-socially respond to various levels of victimization while maintaining both its cultural identity and social structure. Rutter (1987) defines resilience as the "the observation that some individuals, in spite of adverse circumstances or stress, do not develop negative outcomes but overcome life's hazards" (as cited in Ahmed, et al., 2004: 388). Masten et al., (1998) identified three types of outcomes from resilience (a) positive outcomes, despite high-risk environments; (b) competent functioning, in the face of acute or chronic life stresses, and (c) recovery from trauma. Ahmed and colleagues (2004) extend these conceptions of resilience from the individual to community level. In their study of three South African communities, they identified seven dimensions required for community resiliency; (1) small businesses, (2) physical security, (3) community cohesion, (4) community structures and leadership, (5) social supports, (6) access to knowledge, and (7) community

hope. Having small businesses involves ownership and a sense of identity with the local community in which such are located. Physical security is required for members of the community to be able to move freely and participate in the life of the community. Community cohesion is necessary because if the community members do not ‘get along’ they are less likely to respond cohesively to deviance (Sampson and Raudenbush, 1997). Community structures and leadership is critical in times of stress and turmoil. Solid social structures and good leadership are often what community members seek out in times of crisis. Social supports such as relatives and pseudo-extended family members are often the individuals who have experienced trauma seek out in an effort to return to normalcy after victimization. Community members often come together to seek social support and a return to normalcy after great trauma. The unified response of the United States citizenry as a group in response to the events of September 11<sup>th</sup>, 2001 is an example of positive responses to community-level trauma. Without access to knowledge of resources and capital, communities may needlessly suffer. Finally, without hope a community is likely to retain a victim’s mentality; which is likely to become a self-fulfilling prophesy. In this next Section, I discuss the social organization of this tribe.

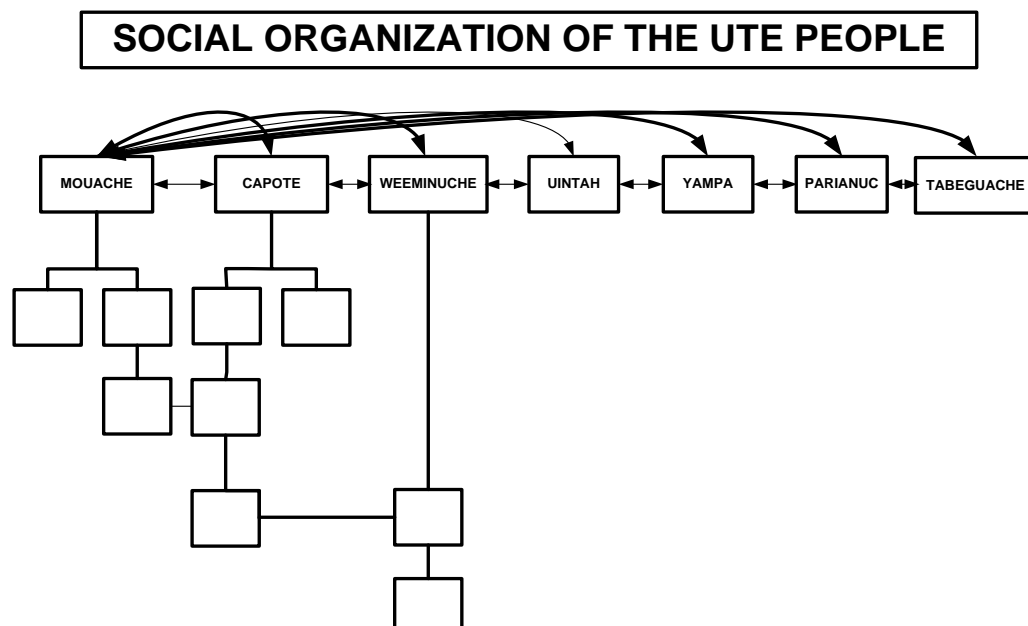


Diagram 4.

Social organization of the Ute People.

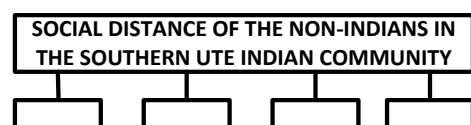


Diagram 5.

Social distance of the Non-Indians in the Southern Ute Indian Community

Tribal communities have been able to survive this long after repeated attacks from outside (e.g., the intrusion of WHITE PEOPLE) and within (e.g., by the desire of members to participate in globalization) because they are resilient. Community resiliency acts as a rubber band around the community. It pulls it back together when social forces pull it apart as when what happens when the community is victimized. What is required for tribal community resiliency?

- Ownership of social, human and cultural capital
  - The tribe must welcome back members who have returned from urban areas; encourage more participation of members in tribal ceremonies in which they are entitled, especially the youth, and third, the tribe must use all means necessary to distance it from the “white people” who are perceived by the community as the prime source of cultural conflict.
- Three levels of social control (primary, secondary and tertiary)
  - Tribal parents must be cognizant of their role in shaping the future lives of their children because it is with the youth that the future of the tribe depends. Elders should be encouraged and protected when they come out from the perceived safety of their homes to guide youth by using knowledge from their past. The tribal council and committee of elders and other intra-tribal groups should encourage other members to help in re-enforcing the values of the entire group. The tribal police, court and other tertiary agents of social control should also be employed to help instill cultural and social values in today’s youth. This will help reduce the number and level of culturally-detrimental deviance that occurs.
- A unified identity among its members (ethnic, cultural and spiritual)
  - To promote a more unified identity among the membership, tribal teachings, stories, and memories must be shared between the youth and the elders. Participation in all of the Dances, ceremonies and culturally-based spiritual activities will go far in aiding the tribe to protect itself from negative social forces that seek to harm it. When all members share in these activities then the collective cultural and spiritual identity of the tribe is strengthened.
- Social cohesion among members (e.g., shared values and perceptions of acceptable behavior)
  - Social organization and cohesion among the membership is the necessary glue to keeping the collective together. The local non-Indians do not have this type of organization and stability for the length of time the Ute have had it. Indeed, the because

the non-Indians are arriving from dispersant places and sub-cultures, it may be impossible for them to develop organizational cohesion.

#### Division of Cultural Labor: Elders, Council, and Youth

Many of the community's opinions about how to best deal with deviant youth behavior rely heavily upon the elders. While they may have been and continue to be helpful and a required part of the tribes' continued existence, there is an uneven division of cultural labor. Parents, certainly, must bear the ultimate responsibility for the behaviors of their offspring but so too must the tribe if traditional cultural values are not being taught to their youth. Because there were several reports of "*rudeness*" and "*disrespect*" of the elders, many elders may feel intimidated to come outside their homes for fear of the harmfulness of youthful behavior or personal attack. Tribal leaders such as the council or their designees should take a part in helping the families who are struggling to survive and keep their children out of trouble; while also teaching them the much needed cultural values that are significant factors in keeping the tribe alive and well-functioning.

#### Changing Paradigm In How Deviance Is Addressed By Both Tribal And Non-Tribal Authorities

In the past, many older people reported, one could discipline their children. Today, with laws that protect children from abusive discipline, it is seen as nearly impossible to get kids who are on the wrong path and back onto the right way. The community often relies upon tertiary mechanisms of social control, such as the police, court, and probation officers to respond to youthful crime and deviance. Observant non-Indians mistakenly believe that the tribal children are "*growing wild*" without proper discipline. This perception was often reported by the Indians in this study.

In this study, the cultural crime most identified by the community, was "*disrespect of tribal elders.*" It is important for the tribal community to define what is considered deviance and crime and for it to find its own solutions to these matters. This study also found that social deviance and criminal behaviors engaged in by tribal youth should not be perceived as unavoidable. Affirmative action taken by both tribal and federal authorities may be required to prevent the more extreme cases of elder abuse and crime committed by youth. Protective factors and cultural interventions may be able to insulate the tribal community from the negative effects of past assimilationist policies, economic disparities, the inevitable intrusion on tribal life of an advancing technological world that has brought about the internet, satellite television and other invasive technologies. Community action (informal social control) in both group and individual efforts may be critical to responding to and preventing the types of social deviance described earlier while controlling for advances in the surrounding society that may affect tribal life.

#### Understanding the Role of Culture and Identity in Community Behavior

Shared strengths in Native American Indian ethnic pride in ones own cultural identity is required for group survival. Mutual respect for Native

American Indian cultural values act as a shield to negative societal phenomena that often precipitates cracks in the social structure of the neighborhood and community; ultimately, making it susceptible to communal pathologies such as crime and victimization. The Ute tribal community is situated such that the means, desire and ability to enact and maintain a shared cultural and spiritual collective identity, which are the two most critical prophylactic elements to community victimization, are already active. In the Ute Indian community, resilience of this modern tribal nation is maintained and strengthened by the collective cultural and spiritual identity of the tribal members. In the next and final Chapter, I discuss the future of rural community research.

## CHAPTER 8

### NEW DIRECTIONS IN COMMUNITY RESEARCH

#### INTRODUCTION

This Chapter seeks to situate the previous work within the framework of early established theories of communities and crime. The Chapter begins by presenting common theoretical frameworks of community research. Next, I discuss the variety of definitions of community and neighborhood. I also discuss prior research on communities. I end this Chapter by providing new directions for rural community research.

#### INTELLECTUAL HERITAGE OF URBAN COMMUNITY RESEARCH

##### Emile Durkheim's Societies: 1893 and Forward

Emile Durkheim, a late 18<sup>th</sup> Century French sociologist, whose seminal research and writings are the core foundations for many areas of social scientific inquiry, made a particularly unique contribution to understanding the types of human societies. Durkheim's early intellectual ideas about societies and communities are the basis for much modern community research. Durkheim asserted there are two general types of societies: mechanical and organic.

A mechanical society, wrote Durkheim in his book "De la division du travail social: Étude sur l'Organisation des Sociétés Supérieures" (partial English translation: "The Division of Labor in Society") first published in 1893, was characteristic of early societies in that they were small and tribal. A mechanical society does not use tertiary controls such as the police to maintain order. In mechanical societies, primary and secondary social control is sufficient. Primary social control indicates that people behave well because they have been taught how to do so. For example, young children experience primary social control when their parents chastise them for inappropriate behavior. Often, children then learn appropriate behavior. This type of social control comes from an individual's primary socialization and usually conforms to parental expectations. Secondary social control comes from interactions with people. The people with whom one interacts are usually the people with whom one must get along, such as co-workers and employers. For example, if behavior is inappropriate then one is usually confronted with messages, both verbal and non-verbal, that seek to guide the individual to conform to what is acceptable to the group. Tertiary social control relates to behavior controlled because of fear of a force external to one's parents and

associates. Tertiary social control is enforced by formal mechanisms such as the police, the courts, and other enforcement agents and agencies. Tertiary social control not only controls the behavior of individuals it also controls behavior by its mere existence (Buckner, 1967).

In mechanical societies, everybody has the “we’re in this together” attitude and agrees regarding the proper way to do things. A mechanical society, according to Durkheim, relies on informal mechanisms of social control. The group or society as a whole exerts a form of control over the behavior of its members. This is the collective conscience. Durkheim (1893:ix) called this “the organ of sentiments and representations.” This type of control, wrote Durkheim, is the basis of social solidarity. Social solidarity is the degree of cohesion “to which those who participate in a social system identify with it and feel bound to support it, especially its norms, values, beliefs, and structure” (Johnson, 1995:42). Social solidarity was required for the survival of the early mechanical societies where interdependency was the norm and each member assumed a role needed for group survival.

Mechanical societies are usually simple or tribal. This means that the roles of group members and the rules of social behavior and community involvement are clearly defined. People living in mechanical societies often share similar living and environmental circumstances which help them to share norms and values (Durkheim, 1893). The laws of the mechanical society are simple, too, and may be met with severe punishments. Such punishments are considered necessary because violations of norms and values in mechanical societies are often harmful to the entire group. Informal, uncodified rules are the norm. As societies become more complex, wrote Durkheim, informal social control and social solidarity weaken. The societies that grow out of mechanical societies are termed “organic.”

Organic societies are characterized as modern. In organic societies, occupational roles change to where people stop working in their homes and start working at a job. As the complexity grows, specializations increase to better meet the needs of the society. In mechanical societies, individuals are responsible for planting and cultivating their own food source. In a modern organic society, where people are often unable to grow their own food, specialists such as grocers take the place of the individual farmer. Specializations such as grocers are a required part of an organic society. Specializations also occur in the law.

In mechanical societies informal social control of the collective conscience is strong in defining and preventing deviance, whereas organic societies rely upon formal tertiary mechanisms of social control. In organic societies the old social control mechanisms break down because of immigration, the city expanding, and people moving into the city. These cause an increase in anonymity. This leads to social disorganization, which produces the anomic situations that Durkheim previously wrote about in his Ph.D. dissertation entitled *Le Suicide* (English translation: *Suicide* written in 1893 and reprinted in English in 1951). In organic societies, tertiary mechanisms grow out of the need for a means of social control to replace informal methods of control. In mechanical societies laws are uncodified and

sometimes arbitrary, while laws in organic societies are only codified. In mechanical societies an individual's active participation played an important role in determining the collective conscience, while organic societies rely on a specialized process (such as voting and legislative activities) to gauge the society's collective conscience. As one author wrote of Durkheim's *The Division of Labor in Society*, "The first great work of a man who controlled French social thought for almost a quarter of a century and whose influence is now waxing rather than waning, it remains today, both from an historical and contextual standpoint, a book that must be read by all who profess some knowledge of social thought and some interest in social problems (George Simpson, Preface to the Translation of "The Division of Labor In Society" (1933))" Durkheim's work provides the basis for later studies that built on his ideas of society and community. Such later work includes the research of Robert E. Park.

### The Chicago School and Urban Ecology

Research in urban American communities has its intellectual roots in the department of sociology at the University of Chicago. Founded in 1892 as the first sociology department in the United States, it retains a historic title: the Chicago School. The Chicago School, also called the Ecological School, focused on understanding many of the maladies facing the urban areas of early Chicago, including crime and delinquency.

### Robert E. Park's The City: 1915-1933

Robert E. Park, a highly regarded sociologist and a senior faculty member in the Chicago School, was heavily influenced by Durkheim's ideas about society in general and the city in particular. In a very influential article entitled *The City: Suggestions for the Investigation of Human Behavior in the City Environment* that appeared in the March 1915 (577-588) issue of *The American Journal of Sociology*, Park describes the city environment and its organization. This is a seminal piece in the discussion of the ecological perspective of human behavior. Park proposed studying cities "as institutions." His ideas of a city includes "...the place, the people, with all the machinery, sentiments, customs, and administrative devices that go with it, public opinion and street railways, the individual man and the tools that he uses."

Park further discussed the elements of the city including the neighborhood, colonies, and segregated areas. He suggested that the intellectual development of the city is dependent upon changes in the population. Park further suggested that "an organization which is composed of competing individuals is in a state of unstable equilibrium, and this equilibrium can be maintained only by a process of continuous readjustment." This readjustment, according to Park, is brought about by changes in the demographic composition of the city. Such changes include mobility of the population supported by the automobile and telephone, specializations in employment, and the division of labor. These ideas are rooted in the ideas first brought forth by Durkheim (1933 [1893]:593) in his discussion of organic and mechanical societies. Park then considered the dynamic role of social



control needed to retain moral order in the city. He wrote that the growth of the city was accompanied by changes in the prevailing means of social control. He suggested that as the city changed, indirect or “secondary” means of social control replace “primary” means of social control. This concept is similar to Durkheim’s (1955[1893]:608-612) idea that as the complexity of the society grew, reliance on informal social control mechanisms would be lessened and a greater reliance upon formal social control mechanisms would occur. Finally, Park wrote that the “excitement of the city draws people from the country.” The influx of immigrants, Park believed, also changes the moral order of the city and contributes to the growth of “moral regions.” He wrote that these “moral regions” must be accepted as part of the natural and normal life of the city. It is in these moral regions that lay the foundation for social organization in all areas of the city. Park, in collaboration with Ernest W. Burgess, his colleague at the Chicago School, went on to investigate the specific characteristics of the city, that is, the ecological characteristics that contribute to increased population density and its associated problems.

#### Park and Burgess’s Concentric Zone Theory: 1925 – 1930’s

Park and Burgess (1925) collaborated on a book titled *The City* that examined problems of urban areas from a human ecological perspective. They built upon Durkheim’s ideas about increases in population density leading to social problems (Durkheim, 1951:47-49). Park and Burgess wanted to understand what it is about the city that may account for its social problems. As human ecologists, Park and Burgess looked at the city the same way that biological ecologists look at naturally occurring bio-domes. In naturally occurring bio-domes, each area is invaded or develops into a new area. For example, an area starts as a swamp with reeds that turn into trees. The trees foster the growth of grasses and the area now becomes a meadow, which then turns into a forest. Park and Burgess thought the city might be developed in the same manner. Just as each successive part of the landscape gave rise to certain types of vegetation, the city could give rise to certain types of behaviors and living conditions.

Park and Burgess were interested in how the city grows. They said “all cities” originally started off as a small market place where people bring their goods to sell. As the town starts to enlarge and as money flows into this central district, the market place starts to take. Rich people are to settle around this market. More people are attracted by money and goods, and move in from the country. The city continues to grow until it becomes a city like Chicago, with its central business district.

Park and Burgess developed a map of the city. Five concentric zones (circles or rings) that were identified by the type of residents in each of the zones. Most businesses are located in the center zone called the central business district. Outside the first ring is the zone in transition, an area where the people who own the land and housing and will not put any money into them because they presume that the central business district is going to expand out and when it does this residential property will be destroyed and turned into businesses. The areas then become slums. Rent in this area is cheap because the buildings are run down. When people move out of the zone in transition

they go to the next area out, which is the working class neighborhood where land is still very expensive. The closer you get to the central business district, the more the land is worth. Because the working class district is expensive, people have small houses and the area develops tenement slum areas. You get people who are no longer poor and they don't have to live in the central business district, but they are not wealthy. Beyond this is the residential area, where people have money and can afford to commute. There is a fifth area beyond that called the commuter zone, where people are commuting into work from farms or other areas. This mapping system became known as Chicago's concentric zones.

People move in and out of the zones in transition because the area is affordable. As more and more people move in, the central business district expands into the zone in transition. The working class area now becomes the zone in transition and the city keeps expanding. Areas develop in the same way the bio-dome does.

#### Shaw and McKay's Social Disorganization Theory: 1930's – 1950's

Clifford R. Shaw and Henry D. McKay (1931) view Park and Burgess's concentric zones as natural areas. They said that crime and suicide are reflections of social disorganization. Shaw and McKay built on Durkheim's ideas of anomic conditions leading to deviance (Durkheim, 1951; also see, Merton, 1938). Durkheim had written that social disorganization is the result of things such as immigration. Shaw and McKay start with the belief that crime and suicide are the result of social disorganization. The immigrants who come to live in that zone have different value systems that conflict with the norm. They do not have a support system and lack social control mechanisms. This is where tertiary mechanisms of social control such as the police need to provide a formal means of social control. The fact that one finds the most crime and delinquency in the zone in transition is evidence, according to Shaw and McKay, of the fact that social disorganization causes crime and suicide.

Shaw and McKay began to use social disorganization as the main cause of crime and deviance. They theorized that when interpersonal relationships are torn apart (as would be the case when people emigrate from other countries without their extended families) and the required social support systems are no longer intact in both families and neighbors, then social bonds are tenuous, if they exist at all. Strong social bonds, such as those Emile Durkheim (1915:1951) studied in his investigation of suicide in early France, do not allow anomic conditions to fester. Anomie is "the social condition in which there is a lack of cohesion and order, especially in relation to norms and values" (Johnson, 1995:11). Anomic conditions are often viewed as responsible for upsetting social organizations (Merton, 1938). Williams and McShane (1999:58) relate how social disorganization was viewed by Shaw and McKay: "...social disorganization became the primary explanation for the emergence of crime. Shaw and McKay's version of social disorganization is based on a conception of primary relationships similar to those found in a village. If relationships in the family and friendship groups are good, neighborhoods are stable and cohesive, and people have a sense of loyalty to

the area, then social organization is sound. Without these characteristics, a community or neighborhood is socially disorganized. Normal social control, which prevents crime and delinquency, cannot do its job.” Decades after Shaw and McKay, other sociologists would suggest that perhaps it may be the physical surroundings that are primarily responsible for criminogenic circumstances.

#### Wilson and Kelling Broken Windows Theory: 1980's

James Q. Wilson's and George L. Kelling's (1982) highly acclaimed article that appeared in *The Atlantic Monthly* proposed that the physical surroundings of a neighborhood lead to crime. Wilson and Kelling wrote that when people see physical decay in the neighborhood, such as abandoned cars, trash, and broken windows, and when these decaying conditions are allowed to persist unabated, then the area becomes a magnet for crime and deviance. They theorized that physical decay of an area suggests to criminal offenders that “nobody cares” about the area and that it is a good area in which to commit crimes. Wilson and Kelling suggested that crime and deviance could be diminished if the areas of concern were cleaned up. Cleaning the area of debris might suggest that people care about the area and the behaviors occurring within. And, that residents, perhaps, would be more willing to contact the police in cases of crime and deviance. Other sociologists suggest that the cause of crime is a result of concentrated economic disadvantage.

#### Sampson, Raudenbush and Earls' Theory of Collective Efficacy

Robert J. Sampson, Stephen W. Raudenbush, and Felton Earls' (1997 & 1998) article in *Science*, proposes a different cause of crime. Sampson et al. say that concentrated economic disadvantage, or poverty, is the cause of crime. They disagree with people who believe that “broken windows” and social disorganization is related to crime. Community violence a result of poverty, argue Sampson and his colleagues, may be mitigated by collective efficacy. They maintain that the amount of crime you have reflects the amount of collective efficacy found in the area. That is, two neighborhoods might have the same amount of poverty, but one will have more crime, and one will have less depending upon the level of collective efficacy.

It is a combination of low levels of informal social control and low social cohesion coupled with low socio-economic status (which they call concentrated economic disadvantage) that is most responsible for violence in communities. They borrowed the term “collective efficacy” from psychology to identify the combination of informal social control and social cohesion. Sampson and his colleagues (1997) believe that collective efficacy mitigates the effects of concentrated economic disadvantage.

Using data from 847 Census tracts, Sampson and his colleagues (1997:919) divided the City of Chicago into 343 “neighborhood clusters” that were meant to be as “ecologically meaningful as possible.” These neighborhood clusters used “geographic boundaries such as railroad tracks, parks and freeways.” In terms of racial and ethnic composition, Sampson and his colleagues (1997) believe that “the extensive racial, ethnic, and social-class

diversity of Chicago's population was important to their study and was a major criterion in its selection as a research site." Moreover, they used predominately four ethnic and racial group designations: white, black, Latino, and immigrant Latino. They used survey interviews with 8,872 Chicago residents in the 343 neighborhood clusters, and they gathered data on informal social control, community cohesion, and criminal victimization. The researchers also examined official crime data kept by the Chicago Police Department.

The researchers found that communities in which there is concentrated economic disadvantage as well as low levels of informal social control and low levels of social cohesion, i.e., in areas of low collective efficacy, there will be more violence. In areas that reported high levels of collective efficacy even in the midst of concentrated economic disadvantage there were lower rates of violence. This is a major scientific finding and is central to much modern community research.

Sampson (2002:213) disagrees with Shaw and McKay on social disorganization, even to the extent that he is "sick of hearing about Shaw and McKay." He believes that social disorganization theories of community crime are archaic and may not account for the ecological influences found in neighborhoods. Jeffery D. Morenoff, Robert J. Sampson, and Stephen W. Raudenbush (2001:519) insist that the "broken windows" theory of community crime causation amounts to a lack of social capital. Lack of social capital and its attendant social disorganization do not incorporate ecological influences that Sampson and his colleagues view as critical to crime causation.

So what does the previous community research tell us? It tells us that people, the community, and the neighborhood are important in determining crime rates. It also tells us that when people are willing to band together and to take efforts to fight crime that there is likely to be less of it. The important questions are: What is a community? What is a neighborhood? How are communities and neighborhoods formed? What are the important items in those communities that determine the extent of crime? For Sampson, it has something to do with people's willingness to come together. He believes that this is somehow related to concentrated economic disadvantage. How can we determine what is a community and what is a neighborhood? What considerations are associated with the extent of people's willingness to act on the behalf of the whole?

### What Is A Neighborhood?

When Durkheim talks about a neighborhood or community, he refers to a group of people who have shared identities and belief systems. As we move forward toward Sampson's work, a spatial group and a community is no longer necessarily people who have things in common other than the fact they live in the same area.

The term community has to go before and beyond just a city. Tribal groups live in communities. When Durkheim talks about mechanical solidarity, he's talking about a community. A community has organic

solidarity. The definition of an urban community changes because a community in the city no longer has the ability to be defined by its culture, residence's habits and norms, and folkways because now these social characteristics are being broken down by the fact that they are living with other people. Social disorganization starts to take place. However, communities are still somewhat spatially defined. But spatial definition is not the whole definition because there are also ecological, cultural, and sometimes political influences. Just because everybody lives in the same neighborhood does not mean they live in the same community. In 1916 Chicago, it was more likely that people of the same group did live in the same area. As you come closer in time, you no longer have single groups occupying a single area. An example would be Santa Ana in Southern California where you have different ethnic groups who have moved into an area and occupy it as their own. This is what Herbert Gans (1982 [1962]) called an "urban village." There is a cultural heritage there that continues, for the most part, this doesn't exist in the cities. When you finally reach Sampson's idea of a neighborhood and/or a community, it becomes spatially defined.

Robert E. Park (1915:580) wrote that a neighborhood is "the smallest local unit of the social and political organization of the city." He added that "the neighborhood is a social unit which, by its clear definition of outline, its inner completeness, its hair-trigger reactions, may be fairly considered as functioning like a social mind." The definition of a neighborhood was further defined by Park and Burgess (Park & Burgess, 1916:147-154, as cited in Morenoff & Gannon-Rowley, 2002:445) as: A neighborhood is a subsection of a larger community – a collection of both people and institutions occupying a spatially-defined area influenced by ecological, cultural, and sometimes political forces."

Other sociologists define neighborhoods ethnically. For example, Gerald D. Suttles (1974 [1968]) wrote that neighborhoods are ethnically defined by their dominant ethnic group. This concept is similar to Herbert Gans' (1982 [1962]) idea of urban villages. Finally, Oscar Lewis (1959) wrote that neighborhoods and communities are culturally defined. Sampson and his colleagues (1997:919) wrote that a "spatial definition of a neighborhood – (is) a collection of people and institutions occupying a subsection of a larger community." It is this final definition of a neighborhood that is used here.

### What Is A Community?

Now that there is an understanding of what a neighborhood is, we next turn the discussion to how a community is defined. A community has a variety of definitions. As Johnson (1995:48-49) wrote, "A community can be a collection of people who share something in common – as in "the Hispanic community" – without necessarily living in a particular place. It can be a feeling of connection to others, of belonging and identification, as in "community spirit" or "sense of community"...it can be a collection of people who share a geographical territory and some measure of interdependency that provides the reason for living in the same place."

Sampson et al.'s (1997) idea is important because their key variable is concentrated economic disadvantage, which is census data derived. They designated neighborhoods by what the census categorizes as neighborhoods. They disregard everything other than that their subjects happen to live in the same neighborhood. With this in mind, it is the latter definition of a community that is the focus here. Let us now return to the concept of collective efficacy.

#### WHAT IS COLLECTIVE EFFICACY?

One might then ask, what is the relationship between collective efficacy and neighborhood? Sampson posits that some neighborhoods have higher levels of collective efficacy than others and that collective efficacy will mitigate the effects of concentrated economic disadvantage. Sampson and his colleagues (2002) believe that a "systematic and clear definition(s) of neighborhood boundaries is needed" in order to better understand the specific neighborhood characteristics both individual, group, and community that influence development of collective efficacy.

With this in mind, one should next ask, what is collective efficacy? The concept of collective efficacy is used in a variety of areas with each having different measures (see, e.g., Sampson et al., 1997; Goddard, 2002; Klessen, 2003; Moritz et al., 2000). For example, there is a relatively large literature about collective efficacy amongst teachers and their students (Goddard, 2001; Goddard & Goddard, 2001; Goddard et al., 2000; Hoy et al., 2002), for team sports and athletic performance (Dorsch et al., 1998; Greenlees et al., 1999; Tagger & Seijts, 2003), for small groups (Baker, 2001; De Cremer & Oosterwegal, 1999; Greenlees, 1999; Salanova et al., 2003), and for employees (Hochwarter et al., 2003; Marks, 1999; Mulvey & Klein, 1998; Parker, 1994).

The idea of collective efficacy has its roots in psychology in general and self-efficacy in particular. Bandura (2000) in his early writings stated that collective efficacy is the collectivist role of self-efficacy. This means that self-efficacy (the ability of a person to actualize his or her identity) is transformed or mitigated in the community setting as a result of the collective conscience. An example of this phenomenon is the following: Say, for example, that a person is gay and that person resides in a community where outward manifestations of their sexual identity are frowned upon and actions (often illegal) are taken to force the individual to hide his or her sexual identity. In this case, the individual's behaviors are modified by the community's informal social control mechanisms. This may lead the person to change his or her public behavior and / or identity. Thus, the collective conscience of the community acts to stunt an individual's self-efficacy.

Morenoff and his colleagues (2001:517 & 520) define collective efficacy as "the linkage of social control and cohesion." They further observe that "the linkage of trust and cohesion with shared expectations for control was defined as neighborhood collective efficacy." Bandura (2000:75-76) wrote that collective efficacy has two parts: "individual" and "group evaluative efficacy." He maintained that if people believe that they can make

a difference in their community, then they will try to do so. If they believe that they cannot make a difference then they will not try to do so. Zellars and her colleagues (2001:485) indicated that perceived collective efficacy is affected by one's view of one's self-efficacy. They state that collective efficacy has two definitions. First, "collective efficacy has been measured as an aggregate of individual members' self-efficacy or as an agreed upon amount derived from group discussions." Second, similar to Bandura's (2000) earlier claims, Zellars et al. (2001:486) state that "collective efficacy is individual members' assessments of their group's ability to perform job-related behaviors."

Moving to collective efficacy in neighborhoods, Sampson and his colleagues (1997:918) defined collective efficacy as "social cohesion among neighbors combined with a willingness to intervene on behalf of the common good." Remember, however, that several others (Bandura, 2000, 1996; Zellars et al., 2000) have said that this willingness to intervene is predicated on the belief that a person's actions will be effective, i.e., one's perception of their own self-efficacy must be sufficient enough to motivate their actions.

## FACTORS AFFECTING COLLECTIVE EFFICACY

### Neighborhood Factors

There are a variety of neighborhood factors that influence the level of collective efficacy found in neighborhoods. Sampson (1997) cites a "high rate of residential mobility" as a characteristic of a neighborhood susceptible to lower levels of collective efficacy (919). High residential mobility is a factor for determining locations most prone to becoming crime zones in urban areas, but may not be a factor in rural areas. Another significant factor is what Velez (2001:839) refers to as "neighboring." Neighboring refers to "the extent of social interaction among neighbors such as talking or getting together." Neighboring is important to building and maintaining social cohesion. Indeed, without such social interaction it would be virtually impossible to build the mechanisms needed to (1) allow individuals to feel a strong sense of both self- and group efficacy and (2) strengthen mechanisms of informal social control. As Velez (2001) suggests, public social control refers to the ability of neighborhoods to secure external resources necessary for the reduction of crime and victimization, is likely to be contingent upon strong neighbor ties. If people in a neighborhood have strong informal relationships with each other, it is more likely that they will act in concert to defend the local area against crime and community violence.

There are other neighborhood-level factors that influence the level of collective efficacy found in a neighborhood. Smith and Jarjoura (1989:562) believe that changing neighborhood composition may increase victimization risks. Moreover, human ecology theory predicts that changes in disorderliness will be linked with the amount of ecological change. This is important to this dissertation because the community under investigation is experiencing population changes as a result of an influx of outsiders. Smith and Jarjoura's ideas may be more applicable to urban rather than rural areas as urban areas are more impacted by a change in the local ecology, especially those that Park

and Burgess (1916) identified as the inner concentric zones. Concentric zones are areas that spread out from a central business area. These are areas that continually change because the population changes on a regular basis. As people move out to the outer rings of the concentric zones, the older areas become susceptible to an infusion of unattached individuals and/or families. When a group of unattached individuals are reluctant to come together, as in many inner cities where people feel lower levels of self and group efficacy, informal social control may be difficult to establish.

### Location Factors

Morenoff and his colleagues (2001:517) studied the role of spatial dynamics, neighborhood inequality, and urban violence. They found that “spatial proximity to homicide is strongly related to increased homicide rates.” Spatial dynamics coupled with neighborhood inequality in social and economic capacity are said to be consequential for explaining urban violence. This is important to this dissertation because victims of violence in the community under investigation often reported that their attackers resided in the same home as the victim. Similarly, Stark (1987:893) found that moral cynicism, density of homes, and density of people living together might be useful explanations for the “ecological concentration of deviance.” Likewise, Sampson and Morenoff (1997) found that population increases were responsible for violent crime. Living in a cohesive community Lee (2000) found, was most influential for the development and maintenance of collective efficacy.

### Cultural Factors

Kubrin and Weitzer (2003) found that the culture of the neighborhood determines if crime is reported. If the neighborhood culture is one that discourages individual involvement in local problems, then crime will not only go reported but levels of informal social control will be reduced or eliminated. Other cultural effects on collective efficacy are the perceptions people hold of their community. For example, Krysan (2002) suggest that a person’s perceptions of a neighborhood’s desirability are often based on race, which is a by-product of cultural beliefs. Yet, Logan and Collver (1983) suggest that where people chose to live is based on criteria that most represents them. They suggest that race was not a factor in this decision. Yet, once people come together to form a neighborhood, they establish social rank in relation to others based on demographic traits such as income, education, occupation, home values, and, finally, by race (also see, Early, 1999). I have shown evidence of this phenomenon in the tribal group as I described the relationship between the Indians and “white people.”

### Individual Factors

Markowitz and Felson (1998) suggest that variations in attitudes, values, and norms amongst neighbors are critical to determining how well-developed collective efficacy becomes. Because people produce their own environments (Bandura, 2000), individuals must gain social capital by their interactions with other community members, which as Morenoff and his



colleagues (2001) suggest, is based on personal and social similarities. Zellars and her colleagues (2001) reported that a person's perceptions of collective efficacy motivate their actions (also see, Watson et al., 2001; Miethe and McDowell, 1993; Bollen & Hoyle, 1990; Lee & Earnest, 2003; Miethe & McDowell, 1993).

## THE FUTURE OF COMMUNITY RESEARCH

### Methodological Contributions of the Chicago School

Empirical sociology became the early trademark of the Chicago School. Many of its core faculty pioneered the use of studying people in their natural environments; faculty and graduate students would actually go out into the urban communities and record their observations of the behaviors of the local residents (Short, 2002). While Emile Durkheim (1966)[1938] advocated the use of statistical methodologies in the social sciences in general and in sociology in particular, the faculty of the Chicago School honed these methods and solidified the significance of their use in modern sociology and later in criminology. Today, much criminological research is dependent upon methods advocated by the early faculty of the Chicago School. Statistical analyses of crime data sets is a too often used method employed by modern criminologists to understand the significance of phenomena that may not be readily apparent without such tests. While many modern criminologists settle for statistical analyses alone, followers of the Chicago School tradition tend to combine both quantitative and qualitative methods in their research. By using participant observations, personal interviews, and studies of official crime records, early criminologists in the Chicago School were able to pinpoint specific areas of criminological concern. They were able to make maps of crime prone areas which then became the focus of their research. At the same time, police departments began using crime data analysts to help determine the appropriate apportionment of law enforcement services. Because the crime prone, or criminogenic, areas were identified, researchers and crime analysts were able to delineate exactly where certain types of crime were likely to occur. Once the crime-prone areas were identified, theories were developed to explain why certain sections of the city are more criminogenic than others. This is how the theory of concentric zones was first developed. During the review of the literature cited above no studies were found that investigated collective efficacy between two different groups with each holding its own collective identity who are living in the same neighborhood.

### Ecometrics

There is a push by some prominent sociologists and criminologists to change the way community level data are gathered. It has been suggested that ecometrics should be used more in community research. Ecometrics "provides a new paradigm for assessing collective properties" (Sampson, 2002:219, also see, Raudenbush & Sampson, 1999; Sampson et al., 1999). Sampson (2002:218-221), in his Edwin H. Sutherland Award presentation to the 2001 annual meeting of the American Society of Criminology in Atlanta, identified three means by which data on communities should be gathered. He urged criminologists to use "community surveys, systematic social

observation, and key informant interviews.” An important part of econometrics “is the development of statistical tools for measurement evaluation”; multi-level Rasch modeling and other sophisticated statistical tools were mentioned. Additionally, spatial dynamics were cited by Sampson as being critical for understanding the “violence in any community.” Other social scientists have different ideas about the future of community research. Hecher (2000) proposed that the focus of community research should be on theory development. While Hecher agreed with Sampson (2002) about the need for better statistical tools, he felt that “power disparities amongst neighbors,” which he believes are significant, need a “more powerful general theory of the emergence of social structures” (Hecher, 2000:698).

## RURAL COMMUNITY RESEARCH

Of growing interest to social scientists is deviance in rural areas and how it differs or is the same as that found in urban areas. The community structures and social networks of rural communities may be much more substantial than those found in urban areas. The social networks that exist in rural communities are more reliant upon shared values and norms just as they had been in early societies. Social deviance is often more harmful when it occurs in a rural area as the potential harms are more wide-reaching and the tertiary victims may be increased. While rural sociology has a firm grounding, the study of rural social deviance and crime is only just emerging. Ideas about deviance that apply to urban areas may not be applicable to rural areas because the organizational behaviors of rural neighborhoods may be stronger and more stabilized than those found in urban areas. Thus it becomes imperative to examine the significant role a collective cultural and ethnic identity may play in the development and sustenance of a rural neighborhood. Cultural norms and values of a rural neighborhood may not differ as they would likely to be in an urban area. Ethnic identity of the neighborhood members and its acknowledged changing composition may be critical in understanding how a rural area transforms into a bustling urban area; complete with all associated pathologies.

While Sampson has provided a sound technological approach to community data gathering he fails to consider two critical elements: culture and identity. All of the most advanced techniques will not compensate for research subjects being unwilling to participate in the study. In rural communities, the culture of the area and the ethnic and racial identities of the respondents are going to influence their participation in any research project. What works well in urban areas may not do so in rural areas. Not only is learning the local urban culture important so too is learning the rural culture. Often I heard my interviewee’s reports that they moved back to the country to get away from the behaviors of those living in urban areas.

Sound scientific research can be conducted in closed tribal communities with the cooperation of both the membership and the tribal council. Tribal communities can become and remain safe and healthy with the Ute people serving as the example.



## **APPENDIX I**

SURVEY INSTRUMENT  
AND  
INTERVIEW SCHEDULE

# Southern Ute Indian Community Safety Survey

A survey conducted for the Honorable Members of the Southern Ute Tribal Council  
Representing  
The Great Southern Ute Indian Nation



## INSTRUCTIONS

1. You will be paid \$10.00 to complete this survey. If you answer **ALL** questions in the survey, your name will be entered into a drawing for an additional \$100.
2. Please answer all of these questions even if you are NOT a Southern Ute Indian!
3. Most of the questions in this survey can be answered by circling or checking one answer.

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### EXAMPLE:

The sample question below asks you to rank the level of seriousness of children stealing candy.

	No Opinion	Not Serious	A Little Serious	Somewhat Serious	Serious	Very Serious
Children stealing candy	0	1	2	3	4	5

For example, if you think that children stealing candy is not serious, then you would circle number 1.  
If you think children stealing candy is very serious, then you would circle 5.

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4. This survey should take about 20 minutes to complete.
5. Please return the completed survey and the envelope containing your green "Payment Request Form" in the large white, self-addressed stamped envelope.
6. Thank you for your cooperation! We value your opinions.



**1. YOUR IDEAS ABOUT CRIME IN GENERAL:**

This Section, we ask you to rank the seriousness of a variety of crime. How serious do you feel the following crimes are? Your answers will help determine where the Tribes' resources should go. (CIRCLE ONE NUMBER IN EACH ROW)

<b>CRIME</b>	No Opinion	Not Serious	A Little Serious	Somewhat Serious	Serious	Very Serious
Murder (intentionally killing another person) <sub>A1</sub>	0	1	2	3	4	5
Robbing someone using a gun or knife <sub>B1</sub>	0	1	2	3	4	5
Rape (forced sexual intercourse) <sub>C1</sub>	0	1	2	3	4	5
Beating someone up <sub>D1</sub>	0	1	2	3	4	5
Pushing, grabbing or shoving someone <sub>E1</sub>	0	1	2	3	4	5
A man beating his wife or girlfriend <sub>F1</sub>	0	1	2	3	4	5
A woman beating her husband or boyfriend <sub>G1</sub>	0	1	2	3	4	5
Stealing someone's car, truck, ATV, or motorcycle <sub>H1</sub>	0	1	2	3	4	5
Grand Theft (for example, stealing farming equipment or livestock) <sub>I1</sub>	0	1	2	3	4	5
Stealing someone's tools (for example, carpenter, mechanic or plumber tools) <sub>J1</sub>	0	1	2	3	4	5
Petty Theft (for example, shoplifting) <sub>K1</sub>	0	1	2	3	4	5
Businesses cheating consumers <sub>L1</sub>	0	1	2	3	4	5
Vandalism (for example, damaging private property) <sub>M1</sub>	0	1	2	3	4	5
People drinking alcohol in public <sub>N1</sub>	0	1	2	3	4	5
Drunk Driving (Driving a car when drunk) <sub>O1</sub>	0	1	2	3	4	5
Driving a car after having a few alcoholic drinks <sub>P1</sub>	0	1	2	3	4	5

## 2. YOUR COMMUNITY

In this Section, we ask you questions related to how you feel about your neighborhood and community. We want to learn if these matters might have something to do with crime in your neighborhood.

How strongly do you agree or disagree with these statements about your neighborhood?  
(CIRCLE ONE NUMBER IN EACH ROW)

COMMUNITY COHESION	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
a. People around here are willing to help their neighbors. <small>A2</small>	1	2	3	4	5
b. This is a "close knit" community. <small>B2</small>	1	2	3	4	5
c. People in this neighborhood can be trusted. <small>C2</small>	1	2	3	4	5
d. People in this neighborhood generally <u>do not</u> get along with each other. <small>D2</small>	1	2	3	4	5
e. People in this neighborhood <u>do not</u> share the same values. <small>E2</small>	1	2	3	4	5
COMMUNITY CHARACTERISTICS	Very Likely	Likely	Neither Likely nor Unlikely	Unlikely	Very Unlikely
f. How likely is it that your neighbors could be counted on to do something if children were skipping school and "hanging out"? <small>F2</small>	1	2	3	4	5
g. How likely is it that your neighbors could be counted on to do something if children were spray painting graffiti on a local building? <small>G2</small>	1	2	3	4	5
h. How likely is it that your neighbors would do something if children were showing disrespect to an adult? <small>H2</small>	1	2	3	4	5
i. How likely is it that your neighbors could be counted on to do something if a fight broke out in front of their house? <small>I2</small>	1	2	3	4	5
j. How likely is it that your neighbors could be counted on to do something if the fire station closest to your home was threatened with budget cuts? <small>J2</small>	1	2	3	4	5



### 3. FORMS OF VICTIMIZATION AND DRUG/ALCOHOL INVOLVMENT

In this Section, we ask you about your own experience of being a victim of family violence within the previous 12 months. We want to know what types of violence, if any, to which you have been exposed.

#### FORMS OF VICTIMIZATION

(MARK ALL THAT APPLY)

ONE WILL KNOW YOUR ANSWERS!

In the previous 12 months, someone hit you with an object.	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
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For example, if in the previous 12 months you were hit with an object by someone living in your home and you reported it to the police, you would then mark the boxes as was done above.

If any of these events happened more than once, refer to the most recent event.

#### FORMS OF VICTIMIZATION

(MARK ALL THAT APPLY)

NO ONE WILL KNOW YOUR ANSWERS!

	1	2	3	4	5	6	7	8
In the previous 12 months, someone threatened you with a knife, gun or other weapon. <sup>A3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
In the previous 12 months, someone slapped or hit you. <sup>B3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
In the previous 12 months, someone beat you up. <sup>C3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
In the previous 12 months, someone kicked or bit you. <sup>D3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
In the previous 12 months, someone pushed, grabbed or shoved you. <sup>E3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.
In the previous 12 months, someone raped you (I was forced to have sexual intercourse against my will). <sup>F3</sup>	This happened to me but not in the last 12 months.	Never happened.	Once	More than once.	It was reported to the police.	The violent person was drunk or on drugs.	The violent person was living in my home.	I was injured.



**4. YOUR NEIGHBORHOOD**

The following questions are about your neighborhood (the area near your home). (check only one box)

1. Who do you think should respond to the problems in your neighborhood? (check only one box) <sup>A4.1</sup>

- ☐ Tribal Council<sub>1</sub>  
☐ Police<sub>2</sub>  
☐ Courts<sub>3</sub>  
☐ Individuals should take care of problems themselves<sub>4</sub>  
☐ Neighborhood Members in Groups<sub>5</sub>  
☐ Government (federal, state or county)<sub>6</sub>

2. Are you active in improving your neighborhood? (circle only one) <sup>B4.2</sup> YES<sub>1</sub> NO<sub>2</sub>

If YES, how? <sup>B4.2.1</sup> (write in) \_\_\_\_\_

3. What do you like about your neighborhood? <sup>C4.3</sup> (write in)

4. What do you **NOT** like about your neighborhood? <sup>D4.4</sup> (write in)

**5. EVALUATION OF TRIBAL SERVICES**

In this Section, we ask you to evaluate some of the services offered by the Southern Ute Tribal Council.

Please feel free to use another sheet of paper to tell us your opinions of the services offered by the Southern Ute Tribal Council.

TRIBAL SERVICES (CHECK ONLY ONE BOX)	Very Satisfied	Satisfied	Neither Satisfied nor Dissatisfied/ No Opinion	Dissatisfied	Very Dissatisfied
In general, how satisfied are you with the Southern Ute <u>Police Department</u> ? <sup>A5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute Tribal <u>Court</u> ? <sup>B5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute Tribal <u>Crime Victim's Services</u> ? <sup>C5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute <u>Community Action Program (SUCAP)</u> ? <sup>D5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute <u>Tribal Council</u> ? <sup>E5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute <u>per capita payments</u> ? <sup>F5</sup>	1	2	3	4	5
In general, how satisfied are you with the Southern Ute <u>retirement benefits</u> ? <sup>G5</sup>	1	2	3	4	5

## 6. CRIMES AGAINST INDIAN CULTURAL VALUES

In this Section, we ask you to answer questions about crimes against Indian cultural values. In the first Section, we ask you about crimes committed by Non-Indians. Non-Indians are people who are not Indian such as Anglos/Whites, Blacks, Hispanics and others. In the second Section, we ask you about crimes committed by Indians who are Members of your own tribe.

CRIMES AGAINST INDIAN CULTURAL VALUES BY <u>NON-INDIANS</u> (CHECK ONLY ONE BOX)	Not Serious	A Little Serious	Neither Serious nor Not Serious	Serious	Very Serious
<u>NON-INDIANS</u> trespassing onto Indian ceremonial or Indian burial grounds. <sup>A6</sup>	1	2	3	4	5
<u>NON-INDIANS</u> buying Indian bones and other Indian cultural artifacts. <sup>B6</sup>	1	2	3	4	5
<u>NON-INDIANS</u> hunting or fishing on the reservation without a tribal permit. <sup>C6</sup>	1	2	3	4	5
<u>NON-INDIANS</u> taking natural resources such as plants, rocks or other sacred items off of the reservation. <sup>D6</sup>	1	2	3	4	5
<u>NON-INDIANS</u> practicing Indian spiritual ceremonies. <sup>E6</sup>	1	2	3	4	5

CRIMES AGAINST INDIAN CULTURAL VALUES BY <u>INDIANS</u> (CHECK ONLY ONE BOX)	Not Serious	A Little Serious	Neither Serious nor Not Serious	Serious	Very Serious
<u>INDIANS</u> selling Indian bones and other Indian cultural artifacts, for personal gain. <sup>F6</sup>	1	2	3	4	5
<u>INDIANS</u> not respecting tribal Elders. <sup>G6</sup>	1	2	3	4	5
<u>INDIANS</u> taking natural resources such as plants, rocks or other sacred items off of the reservation. <sup>H6</sup>	1	2	3	4	5
<u>INDIANS</u> hunting or fishing on the reservation without a tribal permit. <sup>I6</sup>	1	2	3	4	5
<u>INDIANS</u> stealing money from the Tribe (for example, a casino employee taking money from the tribes' casino or a Tribal Council member stealing money from the tribes' bank accounts. <sup>J6</sup>	1	2	3	4	5

7. PAN-INDIAN IDENTITY	YES	NO	DON'T KNOW
Are you enrolled in a tribe, band or clan? <sup>A7</sup>	1	2	3
Has anyone in your family ever enrolled in a tribe, band or clan? <sup>B7</sup>	1	2	3
Has anyone in your family ever attended an Indian school? <sup>C7</sup>	1	2	3
Do you have any contact with a tribe, band or clan? <sup>D7</sup>	1	2	3
Who in your family was or is Indian? <sup>E7</sup> (write in)			
When did you last visit your land or reservation? <sup>F7</sup> (write in)			



**8. YOURSELF:**

In this Section, please tell us about yourself.

**A. You are:** <sub>A1\_1</sub>

- ☐ male<sub>1</sub>  
☐ female<sub>2</sub>

**B. Your age is:** <sub>B1\_1</sub>

- ☐ 17 or younger<sub>1</sub>  
☐ 18 – 29<sub>2</sub>  
☐ 30 - 40<sub>3</sub>  
☐ 41 – 50<sub>4</sub>  
☐ 51 – 60<sub>5</sub>  
☐ over 60<sub>6</sub>

**C. YOUR Racial / Ethnic Identity is:** <sub>C1\_1</sub>

- ☐ I am Southern Ute Indian<sub>1</sub>  
☐ I am Indian but **NOT** Southern Ute<sub>2</sub>  
 (What is your Tribe/Band/Clan?): <sub>C1\_2</sub> \_\_\_\_\_  
☐ I am White/Anglo<sub>3</sub>  
☐ I am Hispanic<sub>4</sub>  
☐ I am Black<sub>5</sub>  
☐ I am Asian<sub>6</sub>  
☐ Other (write in)<sub>7</sub> \_\_\_\_\_ <sub>C1\_3</sub>

**D. a.** The total number of people in your home who are  
**12 years of age or younger is:** \_\_\_\_\_ <sub>DA1</sub>

**b.** The total number of people in your home who are  
**13 years of age or older is:** \_\_\_\_\_ <sub>DB2</sub>

**E.** I am considered a Tribal Elder: <sub>E1\_1</sub> (Circle one) Yes<sub>1</sub> No<sub>2</sub> Don't Know<sub>3</sub>

**F. Please check the statement that best describes your living situation:**TODAY, I live on: <sub>F1\_1</sub>

- ☐ the Southern Ute Indian reservation<sub>1</sub>  
☐ a different Indian reservation<sub>2</sub>  
☐ in the country / a rural area NOT on an Indian reservation<sub>3</sub>  
☐ in the suburbs<sub>4</sub>  
☐ in a city or town (urban area)<sub>5</sub>

**G. What is your annual Household Income?** <sub>G1\_1</sub> (check one)

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> less than \$5,000 <sub>1</sub> | <input type="checkbox"/> 15,000 - 17,499 <sub>6</sub>  | <input type="checkbox"/> 35,000 - 39,999 <sub>11</sub> |
| <input type="checkbox"/> 5,000 - 7,499 <sub>2</sub>     | <input type="checkbox"/> 17,500 - 19,999 <sub>7</sub>  | <input type="checkbox"/> 40,000 - 49,999 <sub>12</sub> |
| <input type="checkbox"/> 7,500 - 9,999 <sub>3</sub>     | <input type="checkbox"/> 20,000 - 24,999 <sub>8</sub>  | <input type="checkbox"/> 50,000 - 74,999 <sub>13</sub> |
| <input type="checkbox"/> 10,000 - 12,499 <sub>4</sub>   | <input type="checkbox"/> 25,000 - 29,999 <sub>9</sub>  | <input type="checkbox"/> 75,000 and over <sub>14</sub> |
| <input type="checkbox"/> 12,500 - 14,999 <sub>5</sub>   | <input type="checkbox"/> 30,000 - 34,999 <sub>10</sub> |  |

**H.** Do you have a phone in your home? <sub>H1\_1</sub> (circle one) YES<sub>1</sub> NO<sub>2</sub> Don't Know<sub>3</sub>

**I.** How many bedrooms are in your home? <sub>I1\_1</sub> (write in) \_\_\_\_\_

**J.** How long have you lived in your current home? (write in) \_\_\_\_\_ years <sub>J1\_1</sub> \_\_\_\_\_ months <sub>J1\_2</sub>

**K.** What is your approximate street address (not your P.O. box) (for example, 123 Elm Street)  
 (write in) \_\_\_\_\_ <sub>K1</sub> Zip Code: <sub>K2</sub> \_\_\_\_\_ - \_\_\_\_\_

Help Make Your Community Safe!



**TOG' OIAK'**  
**(THANK YOU!!)**

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Please do not write in this area.

Payment: Y N      Initials: \_\_\_\_

Issues: \_\_\_\_\_

Census Track # \_\_\_\_\_

S U ☐ ☐ ☐ ☐ ☐ ☐ ☐

Are you an enrolled Southern Ute?

Do you live on the Southern Ute reservation?

How old are you?

Are you considered a tribal Elder?

How long have you lived in this community?

Including yourself, how many people live in your home?

How do you feel about this many people in your home? Do you have enough room, enough space?

*The Tribal Neighborhood:*

Describe what you like about the area where you live.

Describe what do you NOT like about your neighborhood?

How do you feel about the ethnic mix in your neighborhood? Why?

*Cultural Values:*

1. Has someone asked you "How much Indian are you?" How'd you feel about that? Scale?
2. Has someone said to you "But, you don't look like an Indian!" How'd you feel about that? Scale?
3. Has a non-Indian asked you where the ancient burial grounds are? How'd you feel about that? Scale?
4. Has a non-Indian asked you to participate in a spiritual ceremony in order for them to say they have a "real" Indian involved? How'd you feel about that? Scale?
5. Has someone made disparaging remarks about "all Indians" having gambling/alcohol problems? How'd you feel about that? Scale?
6. Has someone asked you to do something for commercial purposes but where the Tribe will not get paid, like take your picture for something? How'd you feel about that? Scale?
7. Has a non-Indian asked you for your cultural artifacts? How'd you feel about that? Scale?

*Youth Behavior*

Have your children been involved in any recent school violence such as bullying or a fight? Describe an example of a common event.

Were police involved or school officials involved?

What was the outcome of this event?

How do you advise your children to defend themselves?

*Elder Abuse*

Are you aware of any events where Youth or young adults were not respecting their Elders or the Tribal Elders? Describe a common incident.

When people don't respect the Tribal Elders, what is your view of this type of behavior?

When people don't respect the Tribal elders, how does it affect your community?

When people don't respect the Tribal Elders, what do you think should be done about this?

Regarding disrespecting Tribal Elders, how can we change this behavior?

If you were in the community somewhere, anywhere, and you saw somebody disrespecting a tribal Elder, would you do anything?

### Tribal Police

Describe your worst experience with the police within the last 5 years.

Describe your best experience with the police within the last 5 years.

Most people are law-abiding citizens. What keeps you out of trouble?

(Please rank these excuses about why you do not commit crime

Card Numbers:

1. Parents told you it was wrong (You were "raised better than that")
2. You "got too old" to be acting like that
3. You don't want to lose your job, car, home or possessions
4. You don't want the personal shame of having a criminal record
5. You don't want to shame your family
6. You don't want to go to jail/prison
7. You don't want to set a "bad example" for children to follow
8. You have children to care for ("no one will care for them if you are in jail")
9. You would not want to be the victim of a crime (You "don't want to hurt anyone.")
10. You do not need to commit crime (You have enough money or possessions)
11. You prefer to go through the appropriate legal channels such as the Tribal Council, police or courts then to take action yourself

Was that hard (regarding the card activity above)?

If you had a crime problem in your neighborhood, who would you turn to? Please rank in order: Tribal Council, why? Tribal Police, why? Tribal Court, why?

Are you involved in any cultural activities?

How might Indian spiritual activities prevent crime?

Have you had any experiences with physical fights with anyone living in your home or with whom you might be having an intimate relationship?

Do you feel there are enough police patrols where you live?

How often do you simply talk to the tribal police while they are on patrol?

What do you usually talk about?

Describe your best encounter with the tribal police.

Describe your worst encounter with the tribal police.

The Tribal Police Department offers a variety of services such as crime prevention, drug suppression and gang intervention, to name a few, have you ever used any of these services? What services have you used?

Describe your experience using the services of the tribal police department.

Have you ever used the Tribal Court? What was your most memorable experience?

What was the case about?

Where you satisfied with the outcome? Why or Why not?

What is your view of the Tribal Court judges?

Have you ever used the Crime Victims' services?

Describe your encounter.

Where your fears/concerns addressed to your satisfaction? Why or why not?

Do you use the services of SUCAP? Which services do you use? Evaluate the services you use.

What kind of job do you think the Tribal Council is doing?

Is the Tribal Council doing any one thing you approve of, that you really like?

Is the Tribal Council doing any one thing you don't approve of, that you would want them to stop or change?

Regarding per capita payments, where does most of your income come from?

Do you find your income to be adequate to cover your necessary expenses?

After you pay your expenses, is there much money left over?

How do you make ends meet?

Do you use the Food Distribution Services (commodities)? Please evaluate their services. Is the food good?

Do you receive retirement benefits from the Tribe?

Are your medical benefits adequate for your needs?

Do you have adequate dental coverage?

Do you have adequate prescription coverage?

Do you have adequate vision coverage? Can you get your eyes check regularly?

Do you use the IHS clinic? Evaluate their services.

Have you ever or would you ever see a Medicine Man or Medicine Woman if you were ill?

Is there anything else you want to add?

Have I asked you anything offensive at all?





## **APPENDIX II**

### **METHODOLOGY**

“IT CAN’T BE DONE!”

They said it could not be done. For many decades social scientists often faced what are perceived to be insurmountable barriers when they try to access Native American Indian reservations. Here, I discuss some of the more significant barriers that exist and may prevent social scientists from working in Indian Country.

## BARRIERS TO ACCESSING CLOSED NATIVE AMERICAN INDIAN TRIBAL COMMUNITIES

### Importance of Being Indian

Most tribes have an Indian Preference clause in their Tribal Codes. The Indian Education and Self-Determination Act (Public Law 93 – 638) requires that preference be given to Indians in all matters related to their affairs. This is the law. Now, I’ll tell you the reality. Many Indians who live on reservations do not view non-Indians favorably (Abril, 2008). Indeed, many Indians will show blatant disapproval of your presence on the reservation. One woman referred to white people as “*your kind*.” After I told her I was Yaqui Indian she suddenly changed her willingness to speak with me about personal and private matters that Indians only speak about with other Indians. Finally, do not try to ‘fake’ being an Indian. Not only will it be painfully obvious but you will be shown to the door as well.

### Gaining Access to the Community

Before any type of research can be conducted on an Indian reservation, one must secure written permission in the form of a Resolution from the tribal council. How does one even get onto the council’s meeting agenda for a vote on a resolution they know nothing about? Answer: Very carefully. If you have already conducted research in Indian Country with good results and a decent reputation at the end then you are in a better position than most other researchers.

You must understand the importance of never allowing your reputation to be tarnished. That means that one should never trust anyone on their research team unless they are known to be absolutely trustworthy. One should also know to never leave a community with ill will. Remember the “rez hotline”? Everybody knows everybody and word travels fast from rez to rez! Pick-up the argot of Indian talk, i.e. talk Indian talk.

If this is your first foray into Indian Country research then you should make contact with an official insider. The Chief of Police or the Department Head should be your first contact to whom you should write. Naturally, they will “check you out,” i.e. make sure you are a legitimate and properly credentialed researcher (personal communication, 1998). Expect a criminal history records check as well. And you are not even in the door, yet! Any contacts you make during these initial screening steps must be kept alive. Always keep in touch. Gaining approval to meet with the tribal council is one

of the most difficult processes; the only other process that is more difficult is getting the average tribal member to actually talk to you thus the need to talk “Indian talk.” I will address that matter later in this section.

Once you do receive the coveted invitation to approach the tribal council, immediately thank them for agreeing to see you. Unless you are Native American Indian yourself, do not wear any pseudo-Indian regalia. Professional attire is always required when meeting with the tribal council, as is your language. Tribal council members are elites and must be addressed as such. Dress as if you were summoned to speak to members of Congress. Do not interrupt any council member or break silence when they are obviously considering or thinking about your proposal. Displaying the typical white, middle-class academic arrogance will be the end of your invitation and any future invitations. Remember, you are in their world with their rules and paradigm. Academic degrees are often meaningless. I once heard of a report about a female professor who tried to access the Southern Ute tribal council to work on the reservation. When a council member was speaking, the professor interrupted and said something to the effect; “*Yeah, we know all that already*” while raising her arm to indicate that what the council member was saying was useless to her. She will never be invited back to that tribal council. Do not let yourself fall into this same situation.

Now you have made it to the tribal council and have been received well. Congratulations! You need some things from them (such as approval, a vote, in-kind assistance and, possibly, the enrollment roster). What will you give back in return for their permissions? I would suggest something useful and unobtainable elsewhere. At the end of this study I gave the tribe two reports. The first report was a simple analysis that provided basic statistics from the study. The second report provided public policy recommendations for areas of concern discovered during the study. These are useful reports and the tribe has since acted on these recommendations.

#### Gaining Cooperation From Tribal Members – “Getn’ them ta talk”

You just jumped through one of the most difficult aspects thus far in conducting research within Indian reservations. Now, the most difficult aspect is getting the average tribal citizen to speak with you openly and honestly about matters of great import but that may be very personal such as their own victimization. There is no way around it; you need the right kind of personality. You need to be a people person. One woman said to me after an interview, “*It’s been real nice talkn’ ta ya.*” You want to hear those kinds of words after every interview. You should ask the people what is important to them. I asked an elder why I was getting such a good response to the study and he replied, “*Because you’re finally asking them about things they want to talk about.*” Data derived from this type of approach is critical to most research projects.

You also need to be unaffiliated with that tribe or be known to any member and, preferably, live a few states away. These measures were taken so the people would be assured that what they say will not be repeated to others or somehow get back to the reservation. I have been successful in this

study because I tell the participants that I am doing this study on behalf of the tribal council and that it is for the benefit of the entire tribe. Take time to understand the people yet be intuitive and respectful of their time and circumstances. They may need to end at the allotted time due to child care issues or other matters. Show genuine interest in their hobbies and crafts. Yet, *never* ask for them or offer to purchase them as many Indians find this behavior to be “very offensive” ( $p=.000$ ). If you want something cultural, try to find it at the tribal museum and purchase it there. Purchasing books on the culture of the tribe is always wise. Finally, do not smile. Many Indians believe that a person who is smiling is actually laughing at them and they may take offense.

When you do have a study participant, at no time should you make any comments or statements based on stereotypes of what an Indian “should be.” Ask them about things they want to talk about (e.g., their animals, grandchildren, etc.). You may need to use financial incentives to get them to participate in your study. Watch your tone of voice. These are just people who happen to be Indians and living on a reservation. Finally, do not *ever* ask about spiritual practices or ceremonies.

### Types of Research Designs

Several of those who have successfully navigated the approval and cooperation barriers need to work out a reasonable research design that will work not just in the field but be scientifically defensible given the nature of the population and research site. Stay away from focus groups, informants, and third parties. The validity issues tied to these methods are such that tend to make the data fatally flawed. To the best of your ability and in often less than ideal field

conditions use the most scientifically sound methods possible. Often one needs to be creative. The standard advice given by someone outside Indian Country is to “just do this or that” when doing so may make the situation worse or is not doable. Remember, too, you will need to defend your work in front of scholars.

### Being Safe in the Community

Often, many reservation communities are similar in victimization risks to inner city ghettos. Street smarts are a required personal element. Do not go in alone at night without an Indian to accompany you. Two whites are in just as much danger as an unknown single white person. Trust no one with your safety but do not show it outwardly in your body language. If you are approached in an aggressive manner, be cool under the threat of danger. Remember these Indians must live in these conditions and they do not need an outsider coming in and being intimidated by the local bully. Doing so gives the aggressor more power to use against the local Indians. Finally, do not touch anything without asking as many Indians feel this is a violation of their cultural values. One participant said to me, “*We are taught not to touch anything we find on the ground...it belongs to someone else.*” Do not take any photographs. Many Indians believe that a photo can be used in witchcraft

against them or can take their spirit away. Do not make disparaging remarks about the physical or social conditions you may find on the reservation. Doing so would be similar to having a guest come into your home and say, “Oh, my goodness! You live like this?” Try to make some genuine compliments or empathy statements as the situation arises.

### Your Reputation in Indian Country

To continue conducting research in Indian Country you must protect your reputation there. Do not recommend anybody that you do not know completely. A ruined reputation means a ruined career in Indian Country research. Do not underestimate the importance of this last area of advice.

### HOW I DID THE PROJECT THEY SAID COULD NOT BE DONE

I just finished a project to measure the Native American Indian ethnic identities of imprisoned women incarcerated in the Ohio Reformatory for Women (ORW). There I found two-hundred and fifty-five women who claimed a Native American Indian identity, in contrast to the two women the state argued they had in their only women’s prison. Maybe I can build on that project? I thought, “*Oh, no!*” Anyway, I was thinking of pursuing the rehabilitative aspect of identity construction for women prisoners. Lying on my favorite torn-up ten year old lounge chair, it came to me with a great shock wave throughout my body. “*I need to read that article!*” As a member of the American Jail Association, I received their monthly magazine titled American Jails. On the current cover, was highlighted the new jail on the Southern Ute Indian reservation. In the highlights was noted that the tribal jail uses “culture-specific” programming for rehabilitation of its prisoners. I had to go there and see what they were doing that was special. Hopefully, I would be able to replicate it in a setting with other Indian offenders.

Two weeks later I visited the tribal jail. I spoke with the detention officers. They were so proud of the fact that just the week prior the jail housed “40 Apaches” (personal communication, 2000). It was apparent to me that in their paradigm, which itself is based on a warrior heritage, detaining Apaches who have a powerful reputation based on their warrior culture and linkage to the great Apache warrior Geronimo, was a source of great pride. I met with all the staff including the commander of the jail. I was also offered a tour of the entire Department of Justice & Regulatory. The new criminal justice center was immaculate. It housed such departments as the police, the court and probation, all regulatory agencies such as wild life, environmental enforcement, and gaming investigators. I told the officials that I wanted to do a community safety survey for my own tribe. I asked if the Southern Ute would be interested in being a comparison site. They were enthusiastic. I prepared a brief project proposal for

the tribal council to consider and sent copies to the Director to distribute to the council. A little while later, I received a phone call from the Director stating that the tribal council had agreed to give me their attention.

Wearing professional clothes, I approached the doors leading to the council chambers. As they opened towards me, I said a prayer to my ancestors

that this and all things related would go well. I came to do something that I thought would be helpful to the entire tribe. After introductions to Chairwoman Peabody and the other council members, I addressed them. I thanked them for this opportunity. I thanked their ancestors for allowing my safe passage to their land. I was in another world. I was in the world of the Indian. I was with my people; physically and spiritually.

I gave a brief outline of what I wanted to do. They had read the proposal. I filled in some details. I promised them two things in return for their cooperation. First, I promised that I would give them one report that presented all the aggregated quantitative data with comparisons between the Indians and the non-Indians. Second, I promised them a second report that would contain policy recommendations for issues identified during the study. With my promises of these items in return, they approved the study on their reservation. They also provided me with the names and mailing addresses for all adult members (those over age 18 at that time) which had been printed on five sets of mailing labels.

#### HOW I WAS RECEIVED BY THE TRIBAL COUNCIL

I know that if I had not been an Indian, it would have been unlikely that I would have been able to get an audience with the tribal council; much less their enrollment roster. A tribal enrollment roster is probably one of the most sought after documents by social science researchers because it contains the names, addresses and other vital information for enrolled members of federally-recognized American Indian tribes. This was some of the tribe's most valued cultural information. I promised them that I would keep it undisclosed with only

my eyes viewing it. I have never broken that promise nor will I ever. I left that meeting with both a sense of great accomplishment but also a sense of great relief. Before leaving the council chamber Chairwoman Peabody asked me an important question. She wanted to know if I could help them with a significant problem.

Chairwoman Peabody stated the following, *"We have a number of people who keep getting in trouble. Could you find out why they still get in trouble and what we (the council) can do to help them stop?"* This is only the biggest question in all of criminology, i.e., why people commit crime and how to stop them. I told them that I would do that for them after the community survey. In the letter of permission to conduct research on the reservation the council included permission to conduct research with the offenders in their tribal jail. This, too, was significant because the jail was contracting with other local tribes to hold their prisoners. This meant there was a large presence of American Indian misdemeanor offenders in one central location. This situation was unlikely to be found anywhere else. As I finished writing this book, I prepared for the study that had been requested.

I argued in this book that a strong and continually reinforced collective cultural and spiritual identity among the members of this tribe is what builds and strengthens its resiliency. This is important because strong community

resiliency has kept the tribe alive for centuries and will continue to do so well into the future. This Section I discuss how the information was gathered. I presented facts that supported my main argument about community resiliency. That is, that a strong collective Indian cultural and spiritual identity builds community resiliency and protects it from attacks upon its culture. The Tribal Code is evidence of this.

### The Southern Ute Indian Tribal Code

I purchased a copy of the Southern Ute Indian Tribal Code in order to conduct an analysis of certain of their laws. I wanted to be able to see what influence the tribes' cultural practices had or has on the development of tribal law. For example, I am aware of at least two tribal laws that have their basis in the Tribe's culture. An example of this is in the Section General Provisions, Article II, Civil Actions § (2) Law Applicable, "any ordinances or customs of the Tribe not prohibited by such federal law." This is reiterated in Sub-Section § (3) Determination of Custom, "Where any doubt arises as to custom and usage of the Tribe, the court may appoint a private advisor or advisors familiar with the Southern Ute Indian Tribal customs and usage." Second, there are specific tribal laws that govern penalties for violations of tribal customs. For example, Title X of the Exclusion and Removal Code, Sub-Section § 10-1-102 Grounds for Exclusion and Removal states that persons may be permanently removed from the Southern Ute Indian reservation for the following offenses: (1) Repeated violations of tribal ordinances; and, (2) Interference with tribal ceremonies, shrines, or religious affairs." By using a triangulated approach to collect the information I was able to get a richer picture of the social and cultural health of this Indian tribe.

### Development of the Instrument

I developed two scales to measure group membership; one consists of cultural values items and the other consists of Indian ethnic identity items. The measures used to establish groups were items associated with Indian cultural values and ethnic identity. Indian cultural values were measured by items that sought to assess the participants' perceptions of certain crimes or offenses against Indian cultural values. The items that measured Indian cultural values used a scale in a Likert format I had developed earlier in my career; I combined these in order to calculate a single score for each individual. The ten items are: 1) Non-Indians trespassing onto Indian ceremonial or Indian burial grounds; 2) Non-Indians buying Indian bones or other Indian cultural artifacts; 3) Non-Indians hunting or fishing on the reservation without a tribal permit; 4) Non-Indians taking natural resources such as plants, rocks, or other sacred items off the reservation; 5) Non-Indians practicing Indian spiritual ceremonies; 6) Indians selling Indian bones and other Indian cultural artifacts; 7) Indians not respecting tribal elders; 8) Indians taking natural resources such as plants, rocks, or other sacred items off the reservation; 9) Indians hunting or fishing on the reservation without a tribal permit; and, 10) Indians stealing money from the tribe (for example, a casino employee taking money from the tribe's casino or a tribal council member stealing money from the tribe's bank accounts).



In my experience working with a variety of Native American Indian groups and reading literature focused on issues relevant to Indians, I created the above cultural values items. Some items (numbers 1, 2, 6, and 8) were derived from federal laws designed to protect Native American Indian tribes. Items 3, 9, 4, 10 are activities prohibited by the Southern Ute Indian tribe and enunciated in the tribal code. Items 5 and 7 reflect values commonly held by Native American Indians and found in much social scientific literature.

#### Pilot Testing the Instrument

I pilot tested an early version of the instrument with a small (n=10) population of Indians from two local rural tribes located in Northern California. I chose these tribes because a friend is a member of one tribe and works for the other. My friend acted as a recruiter for me during the pilot test. These tribes are similar to the Southern Ute Indian Tribe in terms of economic conditions and socio-political circumstances. Each self-selected participant in the pilot test was paid \$25 to complete the questionnaire and provide feedback on its legibility, cultural sensitivity, and any other areas of potential concern. While the comments the pilot testers provided might appear to be influenced by the compensation, I felt most were honest. It was possible that the pilot testers would participate simply for the compensation or would fill out the survey without much honesty. This was not so. The people were asked if \$25 was enough compensation and one woman replied *"I'd have done it for five bucks!"* and another said she was *"just happy to help"* and that she hoped it would *"make a difference in Indian Country."* Each of these individuals provided valuable feedback, which was then used to modify the final instrument employed in this study.

### THE SURVEY

#### Research Participants for the Survey

The first groups of participants were enrolled members of a tribe over the age of eighteen. At the time of the study, there were approximately 891 adults enrolled in the Southern Ute Indian Tribe. The membership roster for the tribe was provided to me by the tribal council for sampling purposes. When I approached the Southern Ute Indian Tribal Council for approval to conduct this study, the tribal council authorized me to receive a copy of their enrollment roster. The second group were non-Indians who resided within the area of the reservation.

#### Randomized Selection

As La Plata County is the county nearest to and surrounding the Southern Ute reservation, I purchased the voter registration list from the local Registrar of Voters. I chose the voter registration list because I was reasonably certain that all names on this list would be of adults over the age of eighteen. I had enough money from the grant to pay incentives to 2,000 participants. There were 891 Utes sampled. There were more than 24,000 registered voters in La Plata County in 2000. I randomly selected 1,100 non-Indians for the control group.

### Responses to the Survey

A total of 667 completed questionnaires were returned. I received 312 completed questionnaires from the Southern Ute sample and 355 from the control group, for a total combined response rate of 38.8% (n=667) from the 1,716 delivered questionnaires. In the end, I had two distinct lists of survey subjects: Indian and non-Indian. There were no self-identified Blacks or Asians in this study. Of those who participated in the structured personal interviews, most (79%, n=56) were Southern Ute Indian. See Appendix I for the survey instrument. After waiting for two months to receive the bulk of the returned questionnaires, I was able to determine the response rate. Of the total 1,991 surveys sent out, 275 were returned to me as undeliverable thus leaving a total of 1,716 (n=840 in the control group and n=876 in the Southern Ute sample) as delivered.

### Demographic Factors

I used several demographic factors in this analysis. These factors included gender, age, having a phone in the home, number of people living in the home, number of bedrooms in the home, and annual household income. There are approximately 1,360 people enrolled in the Southern Ute Indian Tribe (Current as of 6/15/2002, Tribal Information Officer). Of those, 891 (66%) are adults (at least 18 years of age) and the remaining 469 (34%) are juveniles (under 18 years of age). The gender distribution for the adult population follows: 461 (52% of 891) adult females and 430 (32% of 891) adult males. Data on the juvenile population were unavailable but it was reported by the tribal information officer that juveniles comprise the fastest growing segment of this population. This is partially due to high birth rates among the tribal members (cited in many personal interviews, 2002). This phenomenon may separate the Southern Utes from the non-Indians because the non-Indians reported having fewer children. This was likely due to the more aged control group. Table 13 illustrates the basic demographic statistics of those who participated in the survey phase of the study.

Table 13.

Descriptive Statistics from the SUICSS ( $N = 667$ , % of  $n$ )

Variable	Indian ( $n=312$ )	Non- Indian ( $n=355$ )	Sig.
Females	186 (60.0)	237 (67.3)	.000
Males	124 (40.0)	115 (32.7)	.000
Age	<40 (55.1)	>40 (71.2)	.000
Tribal Elders	51 (17.3)		
# of Children Under 12 in Household	1.0	.50	
Annual Household Income†	31,420	41,144	.000

† La Plata County, CO median annual household income is \$39,313. Abril, Julie C. (2005). The Relevance of Culture, Ethnic Identity, and Collective Efficacy to Violent Victimization in One Native American Indian Tribal Community. Ph.D. Dissertation. University of California, Irvine.

### Data Collection

Advertisements were placed in the tribal newspaper, The Drum, and aired on the tribal radio station, KSUT. This was done to announce the survey to the members in order to elicit a maximum response rate. In the introductory letter, I identified myself as a researcher from the University of California. As the council approved and fully supported this study, I was allowed to use the tribal seal on all the study materials and in the advertisements. This was important to do because some tribal members may not have received notice of the study's approval but would be convinced it was approved by the council if the official tribal seal were used. Interview subject recruitment notices were placed on bulletin boards around the tribal community.

I spent the first morning posting flyers (recruitment notices) in all of the tribal offices including: the casino, the recreation center, the senior center the social services center, the SUCAP offices, the food distribution center, the grounds and maintenance office, the housing office, the main tribal administration building onto the many bulletin boards located throughout the reservation, including in the BIA office (a particularly disliked building). In addition, I posted flyers on telephone poles along the tribal housing projects

located on Shoshone Ave. I also placed flyers on the outside screen doors of the apartments located there. It was there where I made contacts with several residents who came outside to see what I was doing. I explained that I was looking for volunteers to participate in a study of community safety on the reservation. I told the first lady that came out, "Hi, I left that for you (the flyer) I'm Julie Abril, I'm doing the community safety survey for tribe." She said, "Oh, are you the one doing the thing for ten dollars?" (She was referring to the questionnaire). I said, "Yes, but now I'm doing a fifty dollar thing." We spent the majority of the day getting to know each other. I think they were 'feeling me out' to determine if I was who I said I was. I wanted to establish my credibility with them. I told them about myself and why I was in Ignacio.

The data were collected during two phases. In the first phase, I distributed the survey questionnaire. In the instrument, I asked a variety of questions related to perceptions of crime seriousness, community efficacy, experiences with violent victimization, crimes against Indian cultural values, pan-Indian ethnic identity, as well as several items to gather information on the demographic characteristics of this population. The community efficacy items were taken from the work of Robert J. Sampson et al. (1997); the criminal victimization items came from the combined work of Murry Straus (1979) and the National Crime Victimization Survey instrument; and, finally, the cultural crime and pan-Indian identity items came from my own previous research in these areas (Abril, 2003, 2002). I used these established items in the survey because they have proven to be reliable measures of the phenomena under investigation.

I mailed a post card to all potential participants the week prior to sending out the questionnaire. I did this to again announce the impending arrival of a questionnaire. I then sent out the entire survey packet which contained a letter of introduction, the questionnaire, a self-addressed stamped return envelope, a research recruitment notice for interviewees in the second phase of the study, a request for payment form, and separate envelope (these were in compliance with UCI IRB 2001-1605 specifications). All respondents returning a completed questionnaire were paid \$10. People who participated in the structured personal interviews were paid \$50. Personnel of the Southern Ute Indian criminal justice system who were interviewed were not compensated as their participation in this study fell under the rubric of their employment duties.

## INTERVIEWS

In the second phase of my study, I conducted structured personal (face-to-face) interviews with 85 self-selected adult Southern Ute Indian tribal members. A structured interview consists of an outline of pre-formulated questions. The interviewer asks these predetermined introductory questions and receives a response from the individual. If the response warrants it, the interviewer is free to ask more questions in order to probe for deeper information regarding an event, opinion or other piece of interesting and relevant data (Fowler & Mangione, 1990). I designed items that were open-ended and that would provide me with more in-depth information about the

social conditions on the reservation. This information was used to help understand the survey information that was provided by the 312 Indians.

Most interviews took place in an office provided to me by the tribal council that was centrally located among the tribal administrative buildings. This had both positive and negative qualities. On the positive side, the subjects would be assured I had tribal council approval as that was required in order to gain access to the interview area. On the negative side, while all interviews were confidential and many conducted in a private conference room with the door closed, some Indians may have felt their participation in the study would be 'reported' to the tribal council. The people may have felt pressured to answer questions in a fashion that coincided with Southern Ute Indian tribal council policy because they feared losing their employment with the tribe. This was a concern because several of the interviews took place in a tribal council approved office space with several tribal members working in the same office. Also, some people may have felt that their participation in the study would subject them to being a target for gossip within the tribal community. This, however, turned out to be an unfounded concern as word of my presence spread throughout the small tribal community as my stay there lengthened. In the end, I could have conducted over 200 interviews but was constrained by both time and funds.

Many other interviews took place in the offices of some of the tribal members, on a picnic table outside the tribal administrative offices, in the homes of the disabled, the elderly, and a few others who saw me in the community as I was posting recruitment notices around the neighborhoods. Indeed, many interviewees were recruited by observing me talking to other Indians in the community. The snowballing technique played a large part in recruiting interview subjects. For example, one subject was recruited for this study after he talked to his nephew. This subject told me that "... (he) heard about me from his nephew and he (the nephew) told him it was pretty good." After I finished the interview with this man he told me that most of his family lives in the same housing complex as he and that he would tell them to participate. Many of his family members were eventually involved in the interview phase. This has the potential to threaten the validity of the data because changes in the environment may have either impeded or facilitated more or less candid responses from the subjects. The people might have changed their responses if family members were at home or supervisors on the job site might be within earshot of the interview. I tried to adjust for these circumstances but I do not feel it lessened the validity of the information gathered.

Each interview lasted for about one hour, with some going for 2 hours and others for 30 minutes. I tape recorded all interviews. Prior to beginning the interview, I told everyone what to expect during the interview. I also told them I had a learning disability that made it difficult for me to talk, listen, and write notes at the same time, and that was why I had to use the tape recorder. In response, most smiled, nodded their heads, or just said, "OK" to this. One man even said, jokingly, "*What? You can't walk and chew gum at the same time?*" We both laughed. My strategy proved to be very beneficial. The people were immediately put at ease as they became visibly relaxed.

### Interview Sample

I had a wide spectrum of interviewees who spanned the social strata of the tribal community; elderly, young, working, unemployed, males, females, law-abiding, and those who have extensive involvement with the criminal justice system, and those who have had none. The modal subject, however, was an employed Southern Ute Indian woman in her mid-40's who had at least some previous exposure to domestic violence. This was important as I did not want to have a sample consisting of one type of individual. Having such would distort my picture of the social conditions on the reservation.

In addition, I told each that although I 'look White', I am Yaqui Indian. I did this because, as I told them, I would be asking questions about White and Indian race relations and I wanted the subjects to be comfortable to speak freely about this issue. This made the subjects even more visibly comfortable before the interview took place. In fact, when I was interviewing one tribal elder in her home, we were talking about white people and for clarification, I asked her, "And, what race were they?" to which she replied, "Your kind." I laughed, smiled, and said, "My kind? I'm Yaqui." She just laughed and said, "Oops!" This was a good move as she then began telling me things that Indians only talk about with other Indians, such as spiritual things. That interview lasted two hours. One man commented on my "fair skin" and told me his mother had fair skin, too. I made extensive field notes after the interviews to record my impressions. Many interviewees continued to discuss related matters long after the 'official' recorded interview was over.

While findings from this study may not be generalizable to other parts of Indian Country, they do provide a picture of one section of the Native American Indian population that lives on a reservation. Ideally, I would have liked to have randomly selected a research site for this project but the timing and circumstances prevented me from doing so.

### Research Participants for the Interviews

Many criminal justice department heads, supervisors, and employees are enrolled Southern Ute tribal members or are descendants or spouses of tribal members. I held discussions with the Director of the Department of Justice & Regulatory, the Chief of Police, the judges of the Tribal Court, the Director of Detention Services, the Probation Department officers, and many other department heads, supervisors and general employees of various arms of the Southern Ute criminal justice system. I did this because I wanted to make sure I included these individuals' attitudes in my overall interview sample.

Selected potential participants who appeared on both the tribal enrollment roster and on the voter registration list were deleted from the non-Indian sample and replaced with new randomly selected subjects from the voter registration list. In the end, I was left with two distinct lists of study participants. One list contained the names and addresses of the adult members of the Ute Indian Tribe. The second list contained the names and addresses of 1,100 registered voters living in La Plata County, who appeared not to be members of the Southern Ute Indian Tribe. All survey selectees were then

sent the Southern Ute Indian Community Safety Survey (SUICSS) questionnaire.

During the interviews, I asked a variety of open-ended questions on topics that ranged from police contact, domestic violence, youth behavior in the community, and social circumstances. For example, I asked about their perceived adequacy of income and access to health care. I asked open-ended questions in order to allow the subject to talk freely about their circumstances. Also, I was able to gather data on the characteristics of domestic violence incidents, data that is missing from the survey section of the research. This information includes facts on the use of witchcraft/sorcery and use of Medicine People (Ute dialect: eiyweepee), among other cultural and spiritual practices. The following are the instructions I gave to the interviewees:

#### CRITERIA FOR INTERVIEWEES

- 1) Native American Indian enrolled in a federally-recognized tribe
- 2) Living on an Indian reservation
- 3) Age 18 and over

#### INSTRUCTIONS

Before I began any interview and before I turn the tape recorder on, I explained the interview process to each subject. The explanation follows:

##### 1) Totally Confidential

I signed a confidentiality agreement between myself and the Tribe that says that I would not reveal any information we discuss to any tribal member or to the Tribal Council, so what we discuss stays with me. I told them their names will not even be on the tapes and that they would be known only as a number. Furthermore, that all the tape recordings would go back to California with me and never return to the reservation. I then encouraged each to be very open and honest with me in their responses.

##### 2) Tape Recorded

I told them that that I must tape record the interview because I have a learning disability that makes it difficult for me to talk, take notes and listen at the same time. All subjects were sympathetic and agreed to be recorded.

##### 3) Will Read From A List Of Questions

I told them that I would read from a list of questions and showed them the questions that were typed on three pieces of paper each laminated and held together by a binder ring. I told them that if a question did not apply to them that they should just tell me and that we would simply move to the next question. I also told them that the questions will be in a variety of areas and that we will be moving from “here to there and all over” so they should not get confused.

##### 4) Cards Are For One Section of the Interview

I told showed each the cards and told them they would be used for one section of the interview. When we arrived at that section I would tell them what to do with the cards. I also told them that the cards had numbers on the back and that the numbers did not mean anything to them; that they should disregard the numbers and simply identify the card. Finally, I told them that the cards were not in any order but I would ask them to put them in order later during the interview.

#### 5) Should Take About an Hour

I told them that the interview should take about an hour and that I would be timing it with my “handy dandy food timer.” I also told them that some people were taking 20, 30, 45 minutes to complete the interview but when I talked to the elders, they would take 1.5 to 2 hours. Most people laughed at this because they understood elders always have too much to say. I then told them that I wanted them to be completely open and speak for as long as they like.

#### 6) Paid \$50.00 by Check at the End of the Interview

I told each that they would be paid \$50.00 by check at the end of the interview.

#### 7) I Am Yaqui, Not White

Finally, I told them that I am Yaqui Indian and not White. I told them that we would talking about White people and that they should be comfortable speaking to me about their encounters with them. Most people laughed and said “OK.”

### ETHICAL PROTECTIONS

The methods used to protect the confidentiality of the people’s identities were extensive. A list of names and valid contact information for a large group of verifiable American Indians is considered extremely valuable to a variety of researchers. For this reason, and to protect the tribal membership from exposure to potential abuse from academic and market survey researchers, the protection of the tribal membership roster was paramount. The roster arrived printed on white mailing labels that had been prepared in quantities sufficient for each phase of the study. The roster was not provided on an electronic diskette as it was believed doing so would facilitate distribution of this list to unauthorized parties. In working within the confines of comfort for the tribe, I accepted these labels and did not transpose the data to an electronic format. I was the only person outside of the tribe to have access to these mailing labels during the course of the study. Names and addresses that were randomly selected from the La Plata County voter registration list were assigned a serial number to identify who belonged to the non-Indian control group.

The interviews were audio tape recorded for later transcription. Before the tape recorder was turned on, I introduced myself to the subjects and told them what to expect. Indeed, the subjects were twice assured that their



statements were confidential because their names would not be recorded on the audio tape. The subjects were visibly pleased by this fact. They spoke freely. The actual tapes with the recorded interviews remain sealed in a locked room. Only the serial number assigned to the interview appears on each tape. For example, a tape with the notation "PI # 67" indicates the tape contains the recording of Personal Interview # 67. No other identifying information appears on the cassette tape.

On all the study recruitment materials, statements were made to inform the interviewees that their participation in the study would be confidential. Moreover, that the data they provided during the study would remain confidential. I have enjoyed a tremendous ability to access traditionally closed, tight-knit tribal communities, in part, because of my reputation of keeping the confidence of those who chose to participate in my research. Native American Indian communities are small and, often, the members of one group travel to and interact with members of other groups. Good "word of mouth" reputations are critical to success in working with tribal communities.

## DISCUSSION OF THE STUDY'S METHODOLOGICAL WEAKNESSES

A number of weaknesses in the methodology may threaten the validity and generalizability of the data. The following discussion is to assist the reader in judging the generalizability of the study. The first weakness is in the design itself. The Southern Ute Tribe was a convenience sample. I had previous contact with this tribe which made access to this community easy. I would have preferred to have selected a research site based on some generalizable criteria. For instance, I would have liked to have developed a list of criteria shared among all tribes such as rural location, economic status, or other measures. I would have then developed a list of tribes from which I could randomly select a research site. By randomly selecting subjects from this research site, I would have improved the generalizability of the data. Not doing this, however, would have likely left me with tribes that would not be appropriate for this study.

The second weakness is the instrument. Space considerations limited my ability to gather more precise information on violent victimization. There were issues of telescoping that were resolved by using items that may have negatively impacted the validity of data reported. For example, I had items placed in a manner that it was impossible to differentiate when the victimization occurred. Two of such items were, "Did the victimization occur within the previous 12 months?" or, more than 12 months ago? These two items placed together may have confused some subjects although the subjects in the pilot study were not confused by this item placement.

The third weakness is the response rate from the Indian group. At the time of the study, there were 891 adults enrolled in the Southern Ute Indian Tribe; in the survey portion of the study, only 312 Indians participated. This resulted in a response rate of about 35%. A larger response rate would have strengthened the validity of the data. It is unknown if 35% is a decent or poor response rate from Native American Indians.

The fourth weakness occurred during the interview phase. There is no way to tie a completed questionnaire to a specific interview subject. The questionnaires were anonymous and distributed earlier in the study. The completed questionnaires were sent by the subjects to a post office box located in Irvine, California. While the questionnaires were being completed and returned by the subjects, I began the interview phase. The anonymous nature of the survey and the interviews prevented linking the two to one subject. Moreover, many interviewees reported that they did not complete a questionnaire. Even if I could link the survey to an interviewee, there would be so few that the results would likely be inconclusive. This is a weakness because with such a low number of matched survey and interviewees, any results would likely be inconclusive and unrepresentative of the true experiences of those living on the reservation. Finally, a fifth weakness of this study is that I constructed the cultural items for the survey questionnaire before I conducted the interviews. If I could do this study over again, I would take information from the interviews and devise better, more accurate Indian cultural values items.

#### STRENGTHS OF THE STUDY

There are a number of positive things, however, to say about the study. I was able to collect data on violent victimization occurring on the reservation that were not reported to any authority. The people were open and at ease talking to me about these personal and private matters. One woman even said to me, "It's been real nice talking to you." Moreover, when I asked a tribal elder why I was getting such a good response to the interviews from tribal members, he said, "Because you are finally asking them things they want to talk about." Finally, as Hill (2002) reported, the race of the interviewer and the perception of skin color, that is, being similar to the subjects, are important for the data gathering effort. After I notified the subjects of my own tribal affiliation; they were clearly put at ease and spoke freely about personal and private matters.

Tape recording the interviews allowed me to fully focus on each subject. I was able to think ahead (while the subject was talking) and formulate other unanticipated questions that would allow me to learn more of the incidents about which the subject was talking. This may have some instrumentation threats as all interviewees were not asked the same question in exactly the same wording. While this is a definite advantage in qualitative research, its weakness is in its reliability. Other researchers who may follow me may not get the same results as I because much of the success of these interviews was based upon my ability to gain the trust and confidence of each subject by 'talking their talk' and identifying with their social circumstances. Finally, I was able to gather more personal information on the opinions of Indians who live on a reservation about crime and violence in their community; matters that are not covered in modern criminological literature.

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